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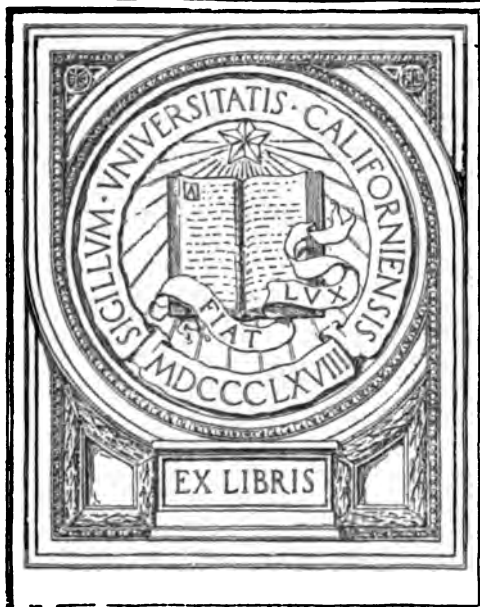
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THE
LITTLE LAWYER
AND
LEGAL ADVISER.

BY
H. A. GASTON,
ATTORNEY AT LAW.

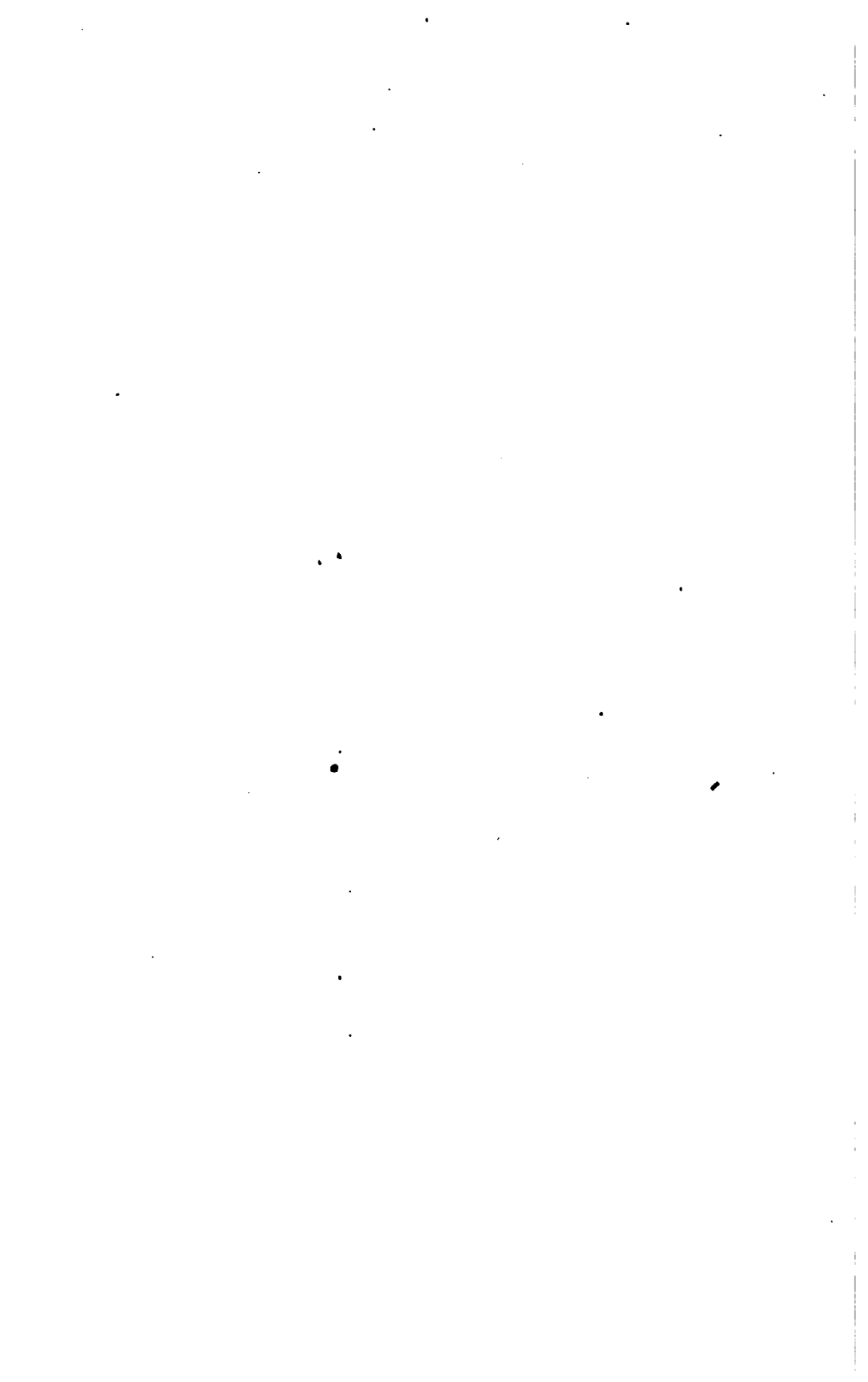
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UNIV. OF
CALIFORNIA

THE LITTLE LAWYER;

OR

THE FARMERS', MECHANICS', MINERS', LABORERS',
AND BUSINESS MEN'S

ADVISER AND LEGAL HELP.

CONTAINING

A CONCISE STATEMENT OF THE MANNER OF MAKING STATUTORY LAWS, AND THE MANNER
OF PUTTING THEM IN PRACTICE; TOGETHER WITH PRACTICAL FORMS OF COMPLAINTS
IN ALL ORDINARY SUITS AT LAW, AND FORMS FOR MECHANICS', MINERS' AND
LABORERS' LIENS; FORMS OF AGREEMENTS, FINDINGS, JUDGMENTS, DECREES,
PROTESTS OF NOTES, CHECKS AND OTHER VALUABLE COMMERCIAL
AND BUSINESS FORMS; ALSO, THE LAWS OF CONGRESS RESPECTING
MINING CLAIMS, AND FORMS FOR CLAIMING THE SAME; ALSO,
THE MANNER OF LOCATING AND ENTERING THE PUBLIC
LANDS OF THE UNITED STATES, INCLUDING DESERT
AND TIMBER LANDS; TOGETHER WITH THE

NEW CONSTITUTION OF THE STATE OF CALIFORNIA.

By H. A. GASTON, Esq., ATTORNEY AT LAW,

*Formerly Member of the Legislature of California, and late Speaker of the
Assembly of the State of Nevada.*

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A. L. BANCROFT AND COMPANY,
SAN FRANCISCO.

1880.

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ANNALES

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PREFACE.

It is not expected that this little work will make lawyers of all who may use it, and those who may suppose that the book will acquaint them with all the principles, or even the forms of law, will make a great mistake; for the principles of law have been developing for ages, and yet, with the progress which the human intellect is making from year to year, and from century to century, new principles of law are being discovered and applied to human action, and new forms of law are being adopted; and no sane mind will expect to see the wisdom of centuries crowded into so small a compass as this book, unless, indeed, the whole duty of man may be comprehended in the "Decalogue," and that comprised the whole work. The object of the book is, in a concise and simple manner, to aid men in the ordinary business of life, by providing them with plain and safe forms and explanations in common legal matters, and for many cases where it would be inconvenient and expensive to consult a lawyer; and in many cases where one can write a plain hand, and can copy the forms and fill the blanks correctly, providing the means for a neater and more complete legal document than many lawyers produce, because it would be more easily read.

At the suggestion of Messrs. Bancroft & Co., and for the convenience of those who may wish to purchase printed forms, the book has been enlarged beyond its original design, and Bancroft's Blanks have been adopted, so far as they could be conveniently, and have been alluded to by number throughout the work, so that any person desiring to use a printed form can obtain any one he may wish by calling on any stationer or bookseller, and giving the number of the form he may desire.

The author has been led to prepare this little hand-

book, by having examined deeds, mortgages, notices of mining claims, and other common instruments, which had been drawn by unskillful persons without a guide, and which were so defective as to be almost, if not wholly, valueless; when, if their writers had had some convenient form on the subject, to refer to and adopt, the instrument would have been so nearly perfect that doubt, and often vexatious and expensive lawsuits, would have been avoided. This frequently occurs in notices of valuable mining locations.

Perfection in this work is not anticipated but as, if successful in this, other improved editions may be issued in future, the author kindly asks any who may purchase this book, to address him any legal question proper to be treated of in such a work, at any time, promising to answer such question to the best of his ability, and to incorporate the law of the subject and a proper form, if such be needed, in the next edition. For this purpose his address will be in care of Messrs. A. L. Bancroft & Co., 721 Market Street, San Francisco.

The author desires to thank his noble friends in Nevada and in Bodie, California, for the generous encouragement they gave him when the object of his work was mentioned to them, and he hopes that the book, though imperfect in many particulars, will more than repay them, and benefit many other worthy people.

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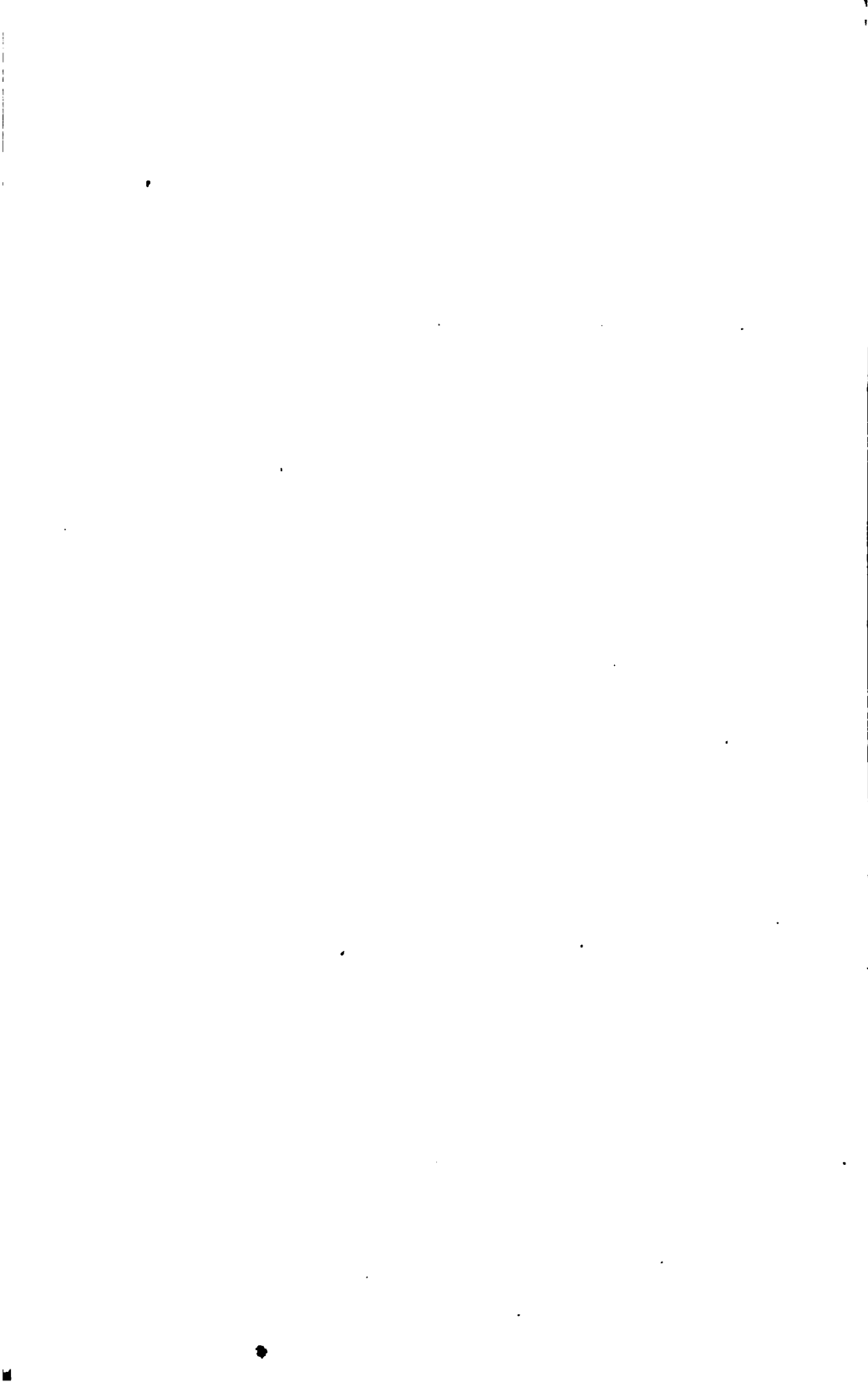
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THE LITTLE LAWYER AND LEGAL ADVISER.

CHAPTER I.

INTRODUCTION.

IN the early history of man laws were necessarily crude and few, because the race consisted of families and small communities or tribes only, who yielded willing allegiance to the head, or to the chief, and who adopted the leading will as their law; but as families and tribes increased in numbers until they became nations, the stronger minds among the people, felt the necessity of regulating all public human action by fixed laws, thus uniting people who spoke the same language under a common government. There can be no doubt that, for many centuries, in the early ages of the world, and among all its peoples, the leading mind and strong will of some one man, gave the law to the people of his vicinity; and if, at heart, he was a good man, and a well wisher of the people, he gave them as wise laws as his judgment dictated; while if he were evil, at heart, he gave them laws which would best promote his evil purposes.

An instance of the latter kind is seen in the history of Mahomet, who, while he recommended and enforced many wise and excellent laws, which were calculated to make his people temperate and in many respects discreet and good, yet recommended many others which debased them, because he desired to gratify his ambition for power, and his lusts.

An example of the former class of lawgivers may be seen in the great and earlier Jewish lawgiver Moses, who, having spent many years in acquiring a knowledge of the laws and government of Egypt, placed himself at the head of the Israelites, who were of his own kindred, and having led them out of the land of Egypt, gave to them a code of moral laws, which, considering the age of the world in which he lived, was the most remarkable, wise, and comprehensive

which was ever laid down for human action. His code was in the following:

Form 1.

And God spake all these words, saying, I am the Lord thy God, which have brought thee out of the land of Egypt, and out of the house of bondage.

1. Thou shalt have no other gods before me.

2. Thou shalt not make unto thyself any graven image or any likeness of any thing that is in heaven above or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them, nor serve them; for I, the Lord thy God am a jealous God, visiting the iniquities of the fathers upon the children unto the third and fourth generation of them that hate me; and showing mercy unto thousands of them that love me and keep my commandments.

3. Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless that taketh His name in vain.

4. Remember the Sabbath day to keep it holy; six days shall thou labor and do all thy work, but the seventh is the Sabbath of the Lord thy God; in it thou shalt not do any work; thou, nor thy son, nor thy daughter, nor thy man-servant, nor thy maid-servant, nor thy cattle, nor the stranger that is within thy gates; for in six days the Lord made heaven and earth, the sea and all that in them is, and rested the seventh day, wherefore the Lord blessed the Sabbath day, and hallowed it.

5. Honor thy father and thy mother, that thy days may be long upon the land which the Lord thy God giveth thee.

6. Thou shalt not kill.

7. Thou shalt not commit adultery.

8. Thou shalt not steal.

9. Thou shalt not bear false witness against thy neighbor.

10. Thou shalt not covet thy neighbor's house; thou shalt not covet thy neighbor's wife, nor his man-servant, nor his maid-servant, nor his ox, nor his ass, nor anything that is thy neighbor's.

The foregoing, which is called the Decalogue, and was revered by our ancestors, but is now almost forgotten by many of their descendants, was for many centuries the most complete and comprehensive law which had been given to man; but after many ages had passed, there arose a young Hebrew, greater than Moses, whose infinite and compre-

hensive mind condensed the foregoing into the following two laws:

Form 2.

Thou shalt love the Lord thy God with all thy heart, and mind, and soul, and strength; and thou shalt love thy neighbor as thy self.

Whatsoever ye would that others should do unto you, do ye even so unto them.

The latter is called The Golden Rule.

Justinian, the greatest of Roman law-givers, said: "The perfection of human duty is this: To injure no one; to do good unto all men, and to render unto every one his just dues."

CHAPTER II.

The Constitution of any State is the supreme law of such State, and all persons within the State are bound, in law, and in good conscience, to maintain its provisions. Such Constitution is supposed to be the embodiment of the wisdom, the wishes, and of the supreme will, of all the people of the State, and that a strict enforcement of its provisions will protect them from wrong, and from the encroachments of tyranny and oppression. As the New Constitution of California differs much from that of any other State in the Union, and as it is the law which must govern the people of California, for some years at least, and is, for many reasons, worthy of a fair, careful and thorough examination, it is herewith presented in full:

CONSTITUTION OF THE STATE OF CALIFORNIA.

*Adopted in Convention, at Sacramento, March 3, A. D. 1879;
and ratified by a vote of the People on Wednesday, May 7,
1879.*

PREAMBLE.

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference,

shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to felony, by the consent of both parties, expressed in open Court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions, and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct

their Representatives, and to petition the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the Court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into Court for, the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a Court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of willful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high-seas; nor while a student at any seminary of learning; nor while kept at any alms-house or other asylum, at public expense; nor while confined in any public prison.

SEC. 5. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, executive and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated "The Legislature of the State of California," and the enacting clause of every law shall be as follows: "The people of the State of California, represented in Senate and Assembly, do enact as follows."

SEC. 2. The sessions of the legislature shall commence at twelve o'clock m. on the first Monday after the first day of January next succeeding the election of its members, and, after the election held in the year eighteen hundred and eighty, shall be biennial, unless the Governor shall, in the interim, convene the Legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this Constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced, in either House, after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two thirds of the members thereof.

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly, after the adoption of this constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter, mem-

bers of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday, after the first Monday in November, unless otherwise ordered by the Legislature.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one Senator, and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty, in the same order, commencing at the northern boundary of the State, and ending at the southern boundary thereof. In the formation of such districts, no county, or city and county, shall be divided, unless it contain sufficient population within itself to form two or more districts; nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States, in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first session after each census, adjust such districts and re-apportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected

by the districts according to the apportionment now provided for by law.

SEC. 7. Each House shall choose its officers, and judge of the qualifications, elections and returns of its members.

SEC. 8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each House may provide.

SEC. 9. Each House shall determine the rule of its proceeding, and may, with the concurrence of two thirds of all the members elected, expel a member.

SEC. 10. Each House shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journal.

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either House, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either House draw pay for any recess or adjournment for a longer time than three days.

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each House, unless, in case of urgency, two thirds of the House where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either House, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the Journal; and no bill shall become a law without the concurrence of a majority of the members elected to each House.

SEC. 16. Every bill which may have passed the Legis-

lature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter such objections upon the Journal, and proceed to reconsider it. If after such reconsideration, it again pass both Houses, by yeas and nays, two thirds of the members elected to each House voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within ten days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect, unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the House in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members elected.

SEC. 18. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Chief Justice and Associate Justices of the Supreme Court, and Judges of the Superior Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

SEC. 19. No Senator or Member of Assembly shall, during

the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by election by the people.

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers of the militia, who receive no annual salary, local officers, or Postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State treasury for the use or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that, notwithstanding anything contained in this or any other section of this Constitution, the Legislature shall have the power to grant aid to institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances; such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided further*, that the State shall have, at any time, the right to inquire into the management of such institutions; *provided further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town, shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

SEC. 23. The members of the Legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem

shall not exceed eight dollars, and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. No increase in compensation or mileage shall take effect during the term for which the members of either House shall have been elected, and the pay of no attaché shall be increased after he is elected or appointed.

SEC. 24. Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title, but in such case the Act revised or section amended shall be reenacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.
2. For the punishment of crimes and misdemeanors.
3. Regulating the practice of Courts of justice.
4. Providing for changing the venue in civil or criminal actions.
5. Granting divorces.
6. Changing the names of persons or places.
7. Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town-plats, parks, cemeteries, grave yards, or public grounds not owned by the State.
8. Summoning and impaneling grand and petit juries, and providing for their compensation.
9. Regulating county and township business, or the election of county and township officers.
10. For the assessment or collection of taxes.
11. Providing for conducting elections, or designating the places of voting, except on the organization of new counties.
12. Affecting estates of deceased persons, minors, or other persons under legal disabilities.
13. Extending the time for the collection of taxes.
14. Giving effect to invalid deeds, wills, or other instruments.
15. Refunding money paid into the State treasury.
16. Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or

person to this State, or to any municipal corporation therein.

17. Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

18. Legalizing, except as against the State, the unauthorized or invalid act of any officer.

19. Granting to any corporation, association, or individual special or exclusive right, privilege or immunity.

20. Exempting property from taxation.

21. Changing county seats.

22. Restoring to citizenship persons convicted of infamous crimes.

23. Regulating the rate of interest on money.

24. Authorizing the creation, extension, or impairing of liens.

25. Chartering or licensing ferries, bridges, or roads.

26. Remitting fines, penalties, or forfeitures.

27. Providing for the management of common schools.

28. Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

29. Affecting the fees or salary of any officer.

30. Changing the law of descent or succession.

31. Authorizing the adoption or legitimation of children.

32. For limitation of civil or criminal actions.

33. In all other cases where a general law can be made applicable.

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, or stock market, under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin, or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party paying it, by suit in any Court of competent jurisdiction.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district, so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and

county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district, shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

SEC. 28. In all elections by the Legislature the members thereof shall vote viva voce, and the votes shall be entered on the Journal.

SEC. 29. The general appropriation bill shall contain no item or items of appropriation, other than such as are required to pay the salaries of the State officers, the expenses of the government, and of the institutions under the exclusive control and management of the State.

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town or other municipal corporation for any religious creed, church, or sectarian purpose whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

SEC. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association or corporation, whether municipal or otherwise, or to pledge the credit thereof in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value, to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to sec-

tion twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

SEC. 34. No bill making an appropriation of money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature, by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such

testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.

SEC. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in the presence of both Houses of the Legislature. The person having the highest number of votes shall be Governor; but, in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both Houses, choose one of such persons so having an equal and the highest number of votes for Governor.

SEC. 5. The Governor shall be Commander-in-Chief of the militia, the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for

the expenses of the session and other matters incidental thereto.

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 11. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature.

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided.

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 15. A Lieutenant-governor shall be elected at the same time and places, and in the same manner, as the Governor; and his term of office and his qualifications of eligibility shall also be the same. He shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President pro tempore of the Senate shall act as Governor until the vacancy be filled or the disability shall cease. The Lieutenant-governor shall be disqualified from holding any other office, except as specially provided in this Constitution, during the term for which he shall have been elected.

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall continue Commander-in-chief of all the military force of the State.

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney-general, and a Surveyor-general shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant-governor, and their terms of office shall be the same as that of the Governor.

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

SEC. 19. The Governor, Lieutenant-governor, Secretary of State, Controller, Treasurer, Attorney-general, and Surveyor-general shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the two terms next ensuing the adoption of this Constitution, as follows: Governor, six thousand dollars per annum; Lieutenant-governor, the same per diem as may be provided by law for the Speaker of the Assembly, to be allowed only during the session of the Legislature; the Secretary of State, Controller, Treasurer, Attorney-general and Surveyor-general, three thousand dollars each per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective terms of office; *provided, however*, that the Legislature, after the expiration of the terms hereinbefore mentioned, may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical services, in any office provided for in this article, exceeding sixteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor-general, and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

SEC. 20. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city or town, or city and county.

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments,

denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

SEC. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general State elections, at the times and places at which State officers are elected; and the term of office shall be twelve years, from and after the first Monday after the first day of January next succeeding their election; *provided*, that the six Associate Justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the Court in bank, signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. If a vacancy occur in the office of a Justice, the Governor shall appoint a person to hold the office until the election and qualification of a Justice to fill the vacancy, which election shall take place at the next succeeding general election, and the Justice so elected shall hold the office for the remainder of the unexpired term. The first election of the Justices shall be at the first general election after the adoption and ratification of this Constitution.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity, except such as arise in Justices' Courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in cases of forcible entry and detainer, and in proceedings in insolvency, and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also, in all criminal cases prosecuted by indictment, or information in a Court of record on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the State, or before any Judge thereof.

SEC. 5. The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts

to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for. And said Court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in Justices' and other inferior Courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate or any part thereof affected by such action or actions, is situated. Said Courts, and their Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

SEC. 6. There shall be in each of the organized counties, or cities and counties of the State, a Superior Court, for each of which at least one Judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one Judge shall be elected for the Counties of Yuba and Sutter, and that in the City and County of San Francisco there shall be elected twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The said Judges shall choose from their own number a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court, held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided at such session. In each of the Counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara and Alameda, there shall be elected two such Judges. The term of office of Judges of the Superior Courts shall be six years from and after the first Monday of January next succeeding their election; *provided*, that the twelve Judges of the Superior Court,

elected in the City and County of San Francisco at the first election held under this Constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitution. If a vacancy occur in the office of Judge of a Superior Court, the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.

SEC. 7. In any county, or city and county, other than the City and County of San Francisco, in which there shall be more than one Judge of the Superior Court, the Judges of such Court may hold as many sessions of said Court at the same time as there are Judges thereof, and shall apportion the business among themselves as equally as may be.

SEC. 8. A Judge of any Superior Court may hold a Superior Court in any county, at the request of a Judge of the Superior Court thereof, and upon the request of the Governor it shall be his duty so to do. But a cause in a Superior Court may be tried by a Judge *pro tempore*, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the Court, and sworn to try the cause.

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two thirds of the members of the Senate and two thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall affect any Judge who has been elected.

SEC. 10. Justices of the Supreme Court, and Judges of the Superior Courts, may be removed by concurrent resolution of both Houses of the Legislature, adopted by a two thirds vote of each House. All other judicial officers, except Justices of the Peace, may be removed by the Senate on the recommendation of the Governor, but no removal

shall be made by virtue of this section, unless the cause thereof be entered on the Journal, nor unless the party complained of has been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the Journal.

SEC. 11. The Legislature shall determine the number of Justices of the Peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties and responsibilities of Justices of the Peace; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record, except that said Justices shall have concurrent jurisdiction with the Superior Courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of the liens nor the value of the property amounts to three hundred dollars.

SEC. 12. The Supreme Court, the Superior Courts, and such other Courts as the Legislature shall prescribe, shall be Courts of record.

SEC. 13. The Legislature shall fix by law the jurisdiction of any inferior Courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties and responsibilities of the Judges thereof.

SEC. 14. The Legislature shall provide for the election of a Clerk of the Supreme Court, and shall fix by law his duties and compensation, which compensation shall not be increased nor diminished during the term for which he shall have been elected. The County Clerks shall be ex-officio Clerks of the Courts of record in and for their respective counties, or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more Commissioners in their respective counties, or cities and counties, with authority to perform Chamber business of the Judges of the Superior Courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 15. No judicial officer, except Justices of the Peace and Court Commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient, and all opinions shall be free for publication by any person.

SEC. 17. The Justices of the Supreme Court and Judges

of the Superior Court shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election, nor during the term for which they shall have been elected. The salaries of the Justices of the Supreme Court shall be paid by the State. One half of the salary of each Superior Court Judge shall be paid by the State; the other half thereof shall be paid by the county for which he is elected. During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be six thousand dollars each. Until otherwise changed by the Legislature, the Superior Court Judges shall receive an annual salary of three thousand dollars each, payable monthly, except the Judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada and Sonoma, which shall receive four thousand dollars each.

SEC. 18. The Justices of the Supreme Court and Judges of the Superior Courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 21. The Justices shall appoint a Reporter of the decisions of the Supreme Court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.

SEC. 22. No Judge of a Court of record shall practice law in any Court of this State during his continuance in office.

SEC. 23. No one shall be eligible to the office of Justice of the Supreme Court, or to the office of Judge of a Superior Court, unless he shall have been admitted to practice before the Supreme Court of the State.

SEC. 24. No Judge of a Superior Court nor of the Supreme Court shall, after the first day of July, one thousand eight hundred and eighty, be allowed to draw or receive any monthly salary unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his Court remains undecided that has been submitted for decision for the period of ninety days.

ARTICLE VII.

PARDONING POWER.

SECTION 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

ARTICLE VIII.

MILITIA.

SECTION 1. The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

ARTICLE IX.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

SEC. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

SEC. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one Superintendent for the counties so uniting.

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new states under an act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

SEC. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the Legislature, or by municipal or district authority; but the entire revenue derived from the State School Fund, and the State School Tax, shall be applied exclusively to the support of primary and grammar schools.

SEC. 7. The local Boards of Education, and the Boards of Supervisors, and County Superintendents of the several counties which may not have County Boards of Education, shall adopt a series of text-books for the use of the common schools within their respective jurisdictions; the text-books so adopted shall continue in use for not less than four years; they shall also have control of the examination of teachers and the granting of teachers' certificates within their several jurisdictions.

SEC. 8. No public money shall ever be appropriated for

the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

SEC. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several Acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments, and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its Regents, and in the administration of its affairs; *provided*, that all the moneys derived from the sale of the public lands donated to this State by Act of Congress, approved July second, eighteen hundred and sixty-two (and the several Acts amendatory thereof), shall be invested as provided by said Acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support and maintenance of at least one College of Agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said Acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex.

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

SECTION 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate; who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee

to a vacancy, occurring before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The governor shall have the power to remove either of the Directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

SEC. 2. The Board of Directors shall have the charge and superintendence of the State Prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

SEC. 3. The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the Prisons. The Board shall have power to remove the Wardens and Clerks for misconduct, incompetency, or neglect of duty. All other officers and employees of the Prisons shall be appointed by the Warden thereof, and be removed at his pleasure.

SEC. 4. The members of the Board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article.

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

ARTICLE XI.

CITIES, COUNTIES, AND TOWNS.

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

SEC. 2. No county seat shall be removed unless two thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing

debts and liabilities of the county or counties from which such territory shall be taken.

SEC. 4. The Legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and, whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

SEC. 5. The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of Boards of Supervisors, Sheriffs, County Clerks, District Attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, shall be subject to and controlled by general laws.

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws, providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or not prohibited to cities, shall be applicable to such consolidated government. In consolidated city and county governments, of more than one hundred thousand population, there shall be two Boards

of Supervisors or Houses of Legislation—one of which, to consist of twelve persons, shall be elected by general ticket from the city and county at large, and shall hold office for the term of four years, but shall be so classified that after the first election only six shall be elected every two years; the other, to consist of twelve persons, shall be elected every two years, and shall hold office for the term of two years. Any vacancy occurring in the office of Supervisor, in either Board, shall be filled by the Mayor or other chief executive officer.

SEC. 8. Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive officer of such city, and the other to the Recorder of deeds of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days, and within not less than thirty days after such publication it shall be submitted to the qualified electors of such city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each House, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor, or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the Secretary of State, the other, after being recorded in the office of the Recorder of deeds of the county, among the archives of the city; all Courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after

the publication of such proposals, and ratified by at least three fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

SEC. 9. The compensation of any county, city, town or municipal officer shall not be increased after his election or during his term of office, nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

SEC. 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

SEC. 12. The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with, any county, city, town, or municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

SEC. 14. No State office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity, but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited

with the Treasurer or other legal depository, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

SEC. 18. No county, city, town, township, Board of Education, or school district, shall incur any indebtedness or liability in any manner or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

SEC. 19. No public work or improvement of any description whatsoever shall be done or made in any city, in, upon, or about the streets thereof, or otherwise, the cost and expense of which is made chargeable or may be assessed upon private property by special assessment, unless an estimate of such cost and expense shall be made, and an assessment, in proportion to benefits, on the property to be affected or benefited, shall be levied, collected, and paid into the city treasury before such work or improvement shall be commenced, or any contract for letting or doing the same authorized or performed. In any city where there are no public works owned and controlled by the municipality, for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this State, shall, under the direction of the Superintendent of Streets or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gas-light or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special Act. All laws now in force in this State, concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. Each stockholder of a corporation or joint-stock association shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation or association. The directors or trustees of corporations and joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation or joint-stock association during the term of office of such director or trustee.

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

SEC. 5. The Legislature shall have no power to pass any Act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 7. The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as

the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall engage in any business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate except such as may be necessary for carrying on its business.

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

SEC. 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting called for that purpose, giving sixty days' public notice, as may be provided by law.

SEC. 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner, except that members of co-operative societies formed for agricultural, mercantile, and manufacturing purposes, may vote on all questions affecting such societies in manner prescribed by law.

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation.

SEC. 14. Every corporation other than religious, educational, or benevolent, organized or doing business in this State, shall have and maintain an office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for inspection by every person having an interest therein, and legisla-

tive committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and place of residence of its officers.

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the Court to change the place of trial as in other cases.

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

SEC. 18. No president, director, officer, agent, or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

SEC. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of pas-

sengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 22. The State shall be divided into three districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said Commissioners shall be qualified electors of this State and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney or employee; and the act of a majority of said Commissioners shall be deemed the act of said Commission. Said Commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpoenas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as Courts of record, and enforce their decisions and correct abuses through the medium of the Courts. Said Commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to

such rates as shall be established by such Commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the Commission, shall be fined not exceeding twenty thousand dollars for each offense, and every officer, agent, or employee of any such corporation or company, who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said Commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the Judge or jury, recover exemplary damages. Said Commission shall report to the Governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The Legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the Commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The Legislature shall have power, by a two thirds vote of all the members elected to each House, to remove any one or more of said Commissioners from office, for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said Commission, the Governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

SEC. 23. Until the Legislature shall district the State, the following shall be the railroad districts: The First District shall be composed of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba, from which one Railroad Commissioner shall be elected. The Second District shall be composed of the Counties of Marin, San Francisco and San Mateo, from which one Railroad Commissioner shall be elected. The Third District shall be composed of the Counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego,

San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one Railroad Commissioner shall be elected.

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

ARTICLE XIII.

REVENUE AND TAXATION.

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in the case of credits secured by mortgage or trust-deed, for a deduction from credits of debts due to *bona fide* residents of this State.

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

SEC. 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other *quasi* public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the

tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by any such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

SEC. 7. The Legislature shall have the power to provide by law for the payment of all the taxes on real property by installments.

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the County Assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

SEC. 9. A State Board of Equalization, consisting of one member of each congressional district in this State, shall be elected by the qualified electors of their respective districts at the general election to be held in the year one thousand eight hundred and seventy-nine, whose term of office after those first elected shall be four years, whose duty it shall be to equalize the valuation of the taxable property of the several counties in the State for the purposes of taxation. The Controller of State shall be ex officio a member of the Board. The Boards of Supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the County Boards may prescribe, as to the county assessments, and under such rules of notice as the State Board may prescribe, as to the action of the State Board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment

roll, and make the assessment conform to the true value in money of the property contained in said roll.

SEC. 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township or district in which it is situated, in the manner prescribed by law. The franchise, roadway, road-bed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization, at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships and districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships and districts.

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner as shall be prescribed by law.

SEC. 12. The Legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons and Indians not taxed. Said tax shall be paid into the State School Fund.

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XIV.

WATER AND WATER RIGHTS.

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates of compensation to be collected by any person, company, or corporation in this State for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or city and county, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water-rates, where

necessary, within such time, shall be subject to peremptory process to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company or corporation collecting water-rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and water-works of such person, company or corporation, to the city and county, or city or town where the same are collected, for the public use.

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

ARTICLE XV.

HARBOR FRONTAGES, ETC.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 3. All tide lands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

ARTICLE XVI.

STATE INDEBTEDNESS.

SECTION 1. The Legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work, to be distinctly specified therein, which law shall provide ways and means exclusive of loans, for the payment of the interest of such debt or liability as

it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people. The Legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

ARTICLE XVII.

LAND AND HOMESTEAD EXEMPTION.

SECTION 1. The Legislature shall protect by law, from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

ARTICLE XVIII.

AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two thirds of all the members elected to each of the two Houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such

amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this Constitution.

SEC. 2. Whenever two thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

ARTICLE XIX.

CHINESE.

SECTION 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burden and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and to provide the means and mode of their removal from the State, upon failure or refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary.

SEC. 2. No corporation now existing or hereafter formed

under the laws of this State, shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation.

ARTICLE XX.

MISCELLANEOUS SUBJECTS.

SECTION 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two thirds vote of each House, may provide, submitting the question of change to the people.

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

SEC. 3. Members of the Legislature, and all officers executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the

duties of their respective offices, take and subscribe the following oath or affirmation :

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of —, according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 4. All officers or Commissioners whose election or appointment is not provided for by this Constitution, and all officers or Commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

SEC. 5. The fiscal year shall commence on the first day of July.

SEC. 6. Suits may be brought against the State in such manner and in such Courts as shall be directed by law.

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

SEC. 13. A plurality of the votes given at any election shall constitute a choice, where not otherwise directed in this Constitution.

SEC. 14. The Legislature shall provide by law, for the maintenance and efficiency of a State Board of Health.

SEC. 15. Mechanics, material-men, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for

the value of such labor done and material furnished ; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SEC. 16. When the term of any officer or Commissioner is not provided for in this Constitution, the term of such officer or Commissioner may be declared by law ; and, if not so declared, such officer or Commissioner shall hold his position as such officer or Commissioner during the pleasure of the authority making the appointment ; but in no case shall such term exceed four years.

SEC. 17. Eight hours shall constitute a legal day's work on all public work.

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the Convention framing this Constitution, including the per diem of the Delegates for the full term thereof.

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

ARTICLE XXI.

BOUNDARY.

SECTION 1. The boundary of the State of California shall be as follows : Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude ; thence running in a straight line, in a south-easterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude ; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight ; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles ; thence running in a north-westerly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude ; thence on the line of said forty-second degree of north latitude to the place of beginning.

Also, including all the islands, harbors, and bays along and adjacent to the coast.

ARTICLE XXII.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

SEC. 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

SEC. 3. All Courts now existing, save Justices' and Police Courts, are hereby abolished, and all records, books, papers, and proceedings from such Courts as are abolished by this Constitution shall be transferred on the first day of January, eighteen hundred and eighty, to the Courts provided for in this Constitution, and the Courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been, in the first instance, commenced, filed, or lodged therein.

SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednes-

day in May, A. D. eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one copy thereof to the post-office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office shall be subject to general distribution by the several Postmasters of the State. The governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Boards of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the Clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the new Constitution." He shall likewise cause to be so printed and delivered to said Clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the new Constitution." The Secretary of State is hereby authorized and required to furnish the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

SEC. 6. The Clerks of the several counties in this State shall, at least five days before said election, cause to be delivered to the Inspectors of Elections, at each election precinct or polling place in their respective counties, suitable registers, poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerk of the respective counties shall, in the City and County of San Francisco, be performed by the Registrar of Voters for said city and county.

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State,

shall be entitled to vote for the adoption or rejection of this Constitution.

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new Constitution, and the proceedings of said Boards shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California.

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution, and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this Constitution shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that State officers are elected.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office; and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary,

A. B. ANDREWS,	WILLIAM J. GRACE,	THOMAS M'CONNELL,
JAMES J. AYERS,	V. A. GREGG,	JOHN M'COY,
CLITUS BARBOUR,	JNO. S. HAGER,	THOS. B. M'FARLAND,
EDWARD BARRY,	JOHN B. HALL,	HIRAM MILLS,
JAMES N. BARTON,	THOMAS HARRISON,	WM. S. MOFFATT,
C. J. BEERSTECHEE,	JOEL A. HARVEY,	JOHN F. M'NUTT,
ISAAC S. BELCHER,	T. D. HEISKELL,	W. W. MORELAND,
PETER BELL,	CONRAD HEROLD,	L. D. MORSE,
MARION BIGGS,	D. W. HERRINGTON,	JAMES E. MURPHY,
E. T. BLACKMER,	S. G. HILBORN,	EDMUND NASON,
JOSEPH C. BROWN,	J. B. W. HITCHCOCK,	T. K. NELSON,
SAM'L B. BURT,	J. E. HALE,	HENRY NEUNABER,
JOSIAH BOUCHER,	VOLNEY E. HOWARD,	CHAS. C. O'DONNELL,
JAMES CAPLES,	SAM A. HOLMES,	GEORGE OHLEYER,
AUG. H. CHAPMAN,	W. J. HOWARD,	JAMES O'SULLIVAN,
J. M. CHARLES,	WM. P. HUGHEY,	JAMES M. PORTER,
JOHN D. CONDON,	W. F. HUESTIS,	WILLIAM H. PROUTY,
C. W. CROSS,	G. W. HUNTER,	M. B. C. PULLIAM,
HAMLET DAVIS,	DANIEL INMAN,	CHAS. F. REED,
JAS. E. DEAN,	GEORGE A. JOHNSON,	PATRICK REDDY,
P. T. DOWLING,	L. F. JONES,	JNO. M. RHODES,
LUKE D. DOYLE,	PETER J. JOYCE,	JAS. S. REYNOLDS,
W. L. DUDLEY,	J. M. KELLEY,	HORACE C. ROLFE,
J. M. DUDLEY,	JAMES H. KEYES,	CHAS. S. RINGGOLD,
PRESLEY DUNLAP,	JOHN J. KENNY,	JAS. M'M. SHAFER,
JOHN EAGON,	C. R. KLEINE,	GEO. W. SCHELL,
THOMAS H. ESTEY,	T. H. LAINE,	J. SCHOMP,
HENRY EDGERTON,	HENRY LARKIN,	BUFUS SHOEMAKER,
M. M. ESTEE,	B. M. LAMPSON,	E. O. SMITH,
EDWARD EVEY,	R. LAVIGNE,	BENJ. SHURTLEFF,
J. A. FILCHER,	H. M. LA RUE,	GEO. V. SMITH,
SIMON J. FARRELL,	DAVID LEWIS,	H. W. SMITH,
A. C. FREEMAN,	J. F. LINDOW,	JOHN C. STEDMAN,
JACOB R. FREUD,	JNO. MANSFIELD,	E. P. SOULE,
J. B. GARVEY,	EDWARD MARTIN,	D. C. STEVENSON,
B. B. GLASSCOCK,	J. WEST MARTIN,	GEO. STEELE,
JOSEPH C. GORMAN,	BUSH M'COMAS,	CHAS. V. STUART,
W. P. GRACE,	JOHN G. M'CALLUM,	W. J. SWEASEY,

CHARLES SWENSON,	H. K. TURNER,	J. V. WEBSTER,
R. S. SWING,	A. P. VACQUEREL,	JOHN P. WEST,
D. S. TERRY,	WALTER VAN DYKE,	PATRICK M. WELLIN,
S. B. THOMPSON,	WM. VAN VOORHEES,	JOHN T. WICKES,
F. O. TOWNSEND,	HUGH WALKER,	WM. F. WHITE,
W. J. TINNIN,	JNO. WALKER,	H. C. WILSON,
DANIEL TUTTLE,	BYRON WATERS,	JOS. W. WINANS,
P. B. TULLY,	JOSEPH B. WELLER,	N. G. WYATT.

CHAPTER III.

THE MANNER OF MAKING STATUTORY LAWS, AND OF PUTTING
THEM IN PRACTICE.

Law, in its widest sense, is a rule of action, of being, or of condition; and may exist in the nature of things, in the power which controls them, or in artificial rules adopted for their guidance. To the latter class, most, if not all, human laws belong.

Municipal law may be defined to be a rule of human action prescribed by the supreme power of the State, commanding what such supreme power claims to be right, and endeavoring to prohibit what such supreme power claims to be wrong; and as municipal laws, in a free country, are framed by representatives chosen by the people, it is the duty of the people of a State, to read, and endeavor to understand, the laws which are made for them, and if such laws are unjust, to demand their repeal. This can easily be effected; for if any law which has been enacted by the Legislature of a State, operates unjustly upon its citizens, the people have it in their power to select representatives to the next Legislature who will repeal such unjust or oppressive laws.

The method of making laws for the government of the people of a State, although simple, may not be understood by all persons, and especially not by all the boys and girls and young people, whose curiosity may tempt them to peep into this book, and perhaps to read some portions of it, for which reason an explanation of the manner in which statutory laws, or the laws of the State, are made, will probably be pardoned by those who understand the process well. Statutory laws are those which have been made by the Legislature of a State, and have *generally* been approved by the Governor of such State. But such is not always the case; for sometimes the Governor may think that a *bill* which is presented to him for his approval and signature would be unjust to the people; or that its provisions are contrary to the Constitution of the State, which

is the supreme law of the State, that is, of all its officers and its people; or that the *bill* was passed hastily and without proper reflection on the part of the members of the Legislature; or for some other reason which the Governor thinks a good one, he returns such bill to the House in which it was first introduced, and states, in writing, his reasons for thinking the bill should not become a law. In such a case, the Governor's refusal to approve the bill, and his returning it to the House in which it originated is called the "Governor's veto," and if similar action be taken by the President of the United States, with any bill which has passed both Houses of Congress—which constitute the Legislature of the nation,—such action is called the "President's veto."

Before proceeding with the explanation of the manner of making statutory laws, it may be well to say that there are other laws which are equally obligatory and binding on the people of a State, as are the statutory laws. These may be classed as the common law. They originated either in the common customs of the people, the origin of which may have been forgotten; or in the decisions of the Supreme Court of the State on matters which have not been fully regulated by statutory laws, and having been acquiesced in and believed to be right and just by the people, have become the common law of the land. These laws, although they were not made by the representatives of the people in the Legislature of the State, are nevertheless the laws of the people, and all must obey them until they are modified, or superseded by statutory laws.

To explain the manner of making statutory laws, we will suppose that some gentleman, who has been elected to represent the people in the next Legislature, desires to have a law made providing that people may change their names in a certain way, if they desire to do so, for any good reason. Under the new Constitution of California, as well as under the Constitution of Nevada, such a law must be *general*; that is, it must be applicable to every person in every county in the State.

The Legislature of a State is composed of two bodies of men which, when in session, are called "Houses." One of these bodies is called the "Senate," and its members are

called Senators. The other body is called the "Assembly," and its members are called Assemblymen. Each of these bodies has a presiding officer. The officer who presides over the Senate is addressed as "Mr. President," and the officer who presides over the Assembly is addressed as "Mr. Speaker." In the Legislature of Nevada there are twenty-five Senators and fifty Assemblymen; while under the new Constitution of California the Senate consists of forty members and the Assembly of eighty members; and before any *bill* can become a law, in either of these States, it must be voted for by a majority of all the members elected to each House of the Legislature.

We will suppose that the gentleman who desires to have a law made to change people's names is a member of the Assembly of California. Now in order to procure the passage of such a law, he would first have to draw what is called a *bill*, for the Constitution says that "No law shall be passed except by bill." The gentleman would therefore draw a *bill* which we will suppose to be something after the following:

Form 3.—Bill.

[TITLE:]

An Act in relation to changing the names of individuals.

[Then the enacting clause of the bill would follow, as the Constitution provides in these words:]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any person desiring to have his or her name changed, may file with the clerk of the Superior Court, within whose jurisdiction he or she may reside, a petition verified by his or her oath, addressed to said Court, stating his or her present name, the name he or she desires to bear in future, and the reasons for desiring such change.

SEC. 2. Upon the filing of such petition, the applicant shall make out and procure to be published in some newspaper of general circulation in the county where the petitioner resides, for the period of thirty days, a notice, stating the fact of the filing of the petition, its object, his or her present name, and the name which he or she desires to bear in future.

SEC. 3. If within ten days after the expiration of such thirty days no written objection shall be filed with said clerk,

upon proof of the filing of the petition and publication of the notice as required in section two, and upon being satisfied by the statements in the petition, or by other evidence, that good reason exists therefor, the said Court shall make an order changing the name of the applicant as prayed for in the petition. But if within said period, objection be filed, the Court shall appoint a day for hearing the proofs respectively of the applicant and the party objecting, upon reasonable notice, and upon such day shall hear the proofs and grant or refuse the prayer of the petitioner, as the proofs shall or shall not show satisfactory reasons for making such change. Upon the making of an order, granting the prayer of the petitioner, the same shall be recorded as a judgment of the Court, and the name of the applicant shall thereupon be as stated in such order.

Now although the gentleman's bill is in the form of a law, before it, or any bill, can become a law, several steps are necessary :

First. It is generally necessary, under the rules of the Houses, to give one day's notice of the introduction of the bill.

Second. The member introducing it must rise in his place and address "Mr. Speaker," if in the Assembly, and "Mr. President," if in the Senate, and after securing the recognition of the presiding officer, send the bill to the Speaker, or to the clerk's desk.

Third. The clerk must read the bill aloud to the Assembly each day for three days, unless in case of urgency two thirds of the members elected to the House vote to have it read the first and second time by title (which vote, in California, must be taken by *ayes* and *noes*, besides which, in the last-named State, it must be printed), and copies of it must be laid on the desks of the members.

Fourth. After it has been read the second time, but not before, the members may discuss its merits and its imperfections. They may then move to amend it, or to lay it on the table, or to postpone it indefinitely, or to refer it to a special committee, or to some standing committee, or to the committee of the whole; and a majority of the members may so change the bill that its author can hardly recognize it.

Fifth. At its third reading the bill must be read through, as

amended, word for word, from beginning to end, and it may now again be amended and compelled in every respect to go through every ordeal maintained at the second reading; and then, if it be not recommitted to some committee for further amendment, and if it has been engrossed, or if it be considered engrossed, it is put upon its final passage; but in order to pass the House (in California) it must receive forty-one votes, and even then some enemy of the bill might move to strike out the "Enacting Clause," which motion, if sustained by forty-one votes, would kill the bill and make it of less value than blank paper.

Sixth. If the bill, after its three several readings, and with its amendments, pass one of the Houses, it is sent at once to the other House (by the clerk of the Assembly if it passed the Assembly, and by the secretary of the Senate if it passed the Senate), where it must again pass through three several readings, and through all the other ordeals it had to encounter in the House in which it originated; and if it be amended, in any respect, in the second House, and if it pass the latter House with such amendments, it has to be sent back to the first House for its concurrence in such amendments; but if it pass the second House without amendments—

Seventh. It is delivered by the clerk or secretary to the committee on enrollment of the House in which the bill originated, who cause it to be enrolled, or carefully written out on large sheets of paper by the enrolling clerk of such House.

Eighth. After this is done the same committee, or some of its members, carry the enrolled bill to the Governor and leave it in his hands for his approval or disapproval, as he may think is right.

Ninth. If the Governor approve the bill he writes his name on it, signifying such approval, and the bill then becomes a law; but if he does not approve it, he returns it to the House in which it originated, with his objections to it in writing, and such House enters his objections on the minutes of its journal, and proceeds to *reconsider* the bill; and if, after reconsidering it, two thirds of all the members elected to both Houses of the Legislature vote for its passage, the bill becomes a law, notwithstanding the objections

of the governor; but if it does not receive such a majority it does not become a law.

On the third reading and final passage of any bill in either House, the votes of the members are taken by "yeas" and "nays," for which purpose the clerk or secretary, or their assistants, call the names of the members or senators in alphabetical order, but omitting to call the presiding officer until the last; and no bill can become a law, in any case, without the concurrence of a majority of all the members elected to each House.

We have now taken a careful bird's-eye view of the manner in which a bill becomes a law, or, in other words, we have seen how statutory laws are made, for all laws enacted in any State of the Union have gone through the same or a similar ordeal to that which we have seen above, or they are supposed to have been made in such manner; but sometimes laws are passed without proper examination and without a strict compliance with the rules of the parliamentary bodies in which they are made, and, perhaps, in forgetfulness of the Constitution which gives those bodies power to pass them.

We will take it as granted that our bill "in relation to changing the names of individuals" has passed safely through all the dangers to which it was exposed in the Legislature as shown above, and we will now endeavor to put the same law into practice by supposing that Mr. Hypolites Amarizah Higginbotham desires to avail himself of its provisions, and to change his name to the more simple one of Henry Buford. To make our case stronger than it might otherwise be, we will suppose that Buford was his mother's maiden name. We will also suppose that the gentleman resides in Alameda County. His first act under our new law will be to draw, or to have drawn, a petition to the Superior Court of the county in which he resides, in accordance with the requirements of our new law, and we will suppose that he draws such petition in the following:

Form 4.—Petition.

To the Superior Court of the State of California, in and for the County of Alameda:

The petition of the undersigned respectfully represents to

this Honorable Court that your petitioner is a resident of Alameda County, in the State of California, and that his name is Hypolites Amarizah Higginbotham; that his said name is a source of great annoyance and discomfort to your petitioner, and has been, from his early infancy; that, during his childhood and in manhood, your petitioner has, on account of the singularity of his said name, been called "Hig," "Hyporizah," "Hipp-bottom," "Hyarizah," and many other uncouth and unpleasant names grievous to be borne. That the maiden name of the mother of your petitioner was Buford, and your petitioner is informed and believes that his said mother desired to name your petitioner Henry Buford in his early infancy, but was overruled in her said desire by the father of your petitioner; that your petitioner is now of legal age, and feels greatly mortified by the indignities which are almost daily visited upon him on account of his said name, and that he greatly prefers the name selected for him by his mother, as above stated, in your petitioner's early infancy.

Wherefore your petitioner prays judgment of the Court, that his name may be changed to Henry Buford, and that your petitioner shall thereafter be known and called by said latter name.

A—B—,
Attorney for Petitioner.

The foregoing petition must be verified by the petitioner in a short affidavit, called a *verification*, which will follow immediately after the petition, and may be in the following:

Form 5.—Verification.

State of California, }
County of Alameda, } ss.

Hypolites Amarizah Higginbotham, being first duly sworn, says that he is the petitioner named in the foregoing petition; that he has heard the same read and understands the contents thereof, and that the same is true of his own knowledge, except as to those matters which are stated therein upon his information and belief, and as to those matters, that he believes it to be true.

HYPOLITES AMARIZAH HIGGINBOTHAM.

Subscribed and sworn to before me this
ninth day of January, A. D. 1880.

ABRAM ROSSITER,
Justice of the Peace.

Of course, Mr. Higginbotham *could* sign his petition himself instead of employing an attorney, but it is, gen-

erally, very unsafe for a man to act as his own attorney in so important a Court, and many who attempt to do so will exemplify the truth of the old adage, "He who is his own attorney in Court, has a fool for a client."

Now our bill, which we have passed so nicely through both Houses of the Legislature, and into the hands of the Governor, and which has received his signature, so that it has become a law, or a statute, of the State, requires that the petitioner shall file his petition with the clerk of the Court; and it further requires that he give notice in some newspaper of general circulation in the county in which the petitioner resides, for the period of thirty days, stating the fact of the filing of such petition, its object, the petitioner's present name, and the name he desires to bear in future. This he might do in the following :

Form 6.—Notice.

To all whom it may concern :

Notice is hereby given that I, Hypolites Amarizah Higginbotham, have filed my petition with the clerk of the Superior Court of the State of California, in and for the county of Alameda, praying said Court to change my aforesaid name to Henry Buford, for reasons stated in said petition ; and that it is my intention to move said Court on Monday the —— day of ——, A. D. 188— [the day named must be forty or more days after the first publication of the notice, as our law requires], or as soon thereafter as the same can be heard, for an order of said Court changing my name to Henry Buford as above stated.

HYPOLITES AMARIZAH HIGGINBOTHAM.

OAKLAND, January 9, 1880.

This awkwardly long-named gentleman has now complied, so far, with the requirements of our new law, and during the time intervening the thirty days required for the publication of the notice and the ten days thereafter, during which objections may be filed with the clerk against changing his name, he should procure the affidavit of the printer or publisher of the newspaper, to which affidavit a copy of the notice should be attached, stating that such notice has been published in such newspaper for a period of thirty days ; and he should file such affidavit with the clerk of the Court ; for the Court can not render a judgment changing his name, without proofs that the petitioner

has complied with all the requirements of our law; and by having the proofs all ready in the clerk's office, he will save much vexation and facilitate the business of the Court.

When forty days have elapsed after the first day on which the foregoing notice was published, if no objections have been filed with the clerk to the prayer of the petitioner, on the day named in his notice, he, or his attorney, may ask the Court to grant the order prayed for in his petition, and, if no objections have been filed, as before stated, and the reasons for changing the name be satisfactory to the Court, he will sign an order (which should be drawn up and presented to the Court), in something like the following:

Form 7.—Judgment.

In the Superior Court of the State of California, in and for the County of Alameda:

In the matter of the application of Hypolites Amarizah Higginbotham to change his name to Henry Buford.

Now, on this — day of —, A. D. 1880, on motion of A — B —, Esq., attorney for the petitioner Hypolites Amarizah Higginbotham, to change the petitioner's said name to Henry Buford, it appearing from the evidence, to the satisfaction of the Court, that the petition of said petitioner was duly filed with the clerk of this Court on the — day of January, 1880, and that notice of the filing of said petition, with its object, the petitioner's present name and the name he desires to bear in future, was published in the — —, a newspaper having general circulation in the county in which such petitioner resides, for a period of thirty days; and it further appearing, to the satisfaction of the Court, that ten days have elapsed since the completion of the publication of such notice, and that no objections have been filed with the clerk of this Court to said petition (or, if objections have been filed, that such objections have been overruled by the Court): Now, in consideration of the premises, it is ordered and adjudged by the Court that the prayer of the petitioner be granted, and that the name of the person heretofore known as Hypolites Amarizah Higginbotham be changed, and such name is hereby changed, to that of Henry Buford, by which name, Henry Buford, the said person shall hereafter be legally known and called.

Done in open Court, this — day of —, A. D. 188—.

Judge of said Superior Court.

The foregoing illustrates the manner of making a statutory law, and the practice following, or the manner of enforcing it; and, although one of the simplest forms of law has been chosen in order that any reader of ordinary intelligence might understand the whole process, yet the provisions of all statutory laws must be followed as carefully as we have attempted to follow out the requirements of this law. Legislatures make laws, and, if constitutional, the Courts enforce them, through their officers; but in order that the Courts may be enabled to enforce them, those persons who desire to avail themselves of the benefits of the laws must make application to the Courts, precisely in the manner required by the laws; for unless this be done, the Courts are powerless to act, or, if they act, their judgments will be irregular, if not void.

CHAPTER IV.

EXEMPLIFICATION OF AN ACTION AT LAW.

As we stated on a former page, there are many laws which the Courts will enforce, which are based either on customs so old that no man can remember how or when they originated, or on decisions of the Supreme Courts of the different States or of the United States; and such laws will continue to be enforced by the Courts until they are modified or repealed by the Legislature of the State.

For instance, we do not know when the rule was first established that if one person agrees to purchase a piece of property from another and pays anything of value on the purchase to the other person, the latter can be compelled to deliver to the former the article purchased, upon tendering payment of the full balance of the contracted price; or, if the article be otherwise disposed of, so that the seller can not deliver it, the seller can be compelled to pay to the purchaser all damages which he may have sustained on account of the non-delivery of the article; for, although there may be no statutory law providing for such a case, yet, because common custom, long acquiesced in by the people, and the decision of the Courts, have established such a rule, on application to the Courts by the purchaser, they will compel the seller to deliver the article purchased or to pay damages for neglecting so to do. On the other hand, if the purchaser refuse to complete the purchase after having paid any part, the seller can deliver the goods sold, and, on application to the Courts, they will compel the purchaser to pay for them whatever he agreed to pay, unless the qualities of the goods were misrepresented to him.

"Fraud vitiates every contract," and courts will not sustain any contract which parties have been induced to make by fraudulent representations.

Let us suppose a case : Amos Grant and William Jones live near Bodie, in Mono County, California. Mr. Grant has cows, pigs and chickens ; Mr. Jones wishes to purchase some of them, and he agrees to pay to Mr. Grant sixty dol-

lars for a certain cow ; fifteen dollars for three certain pigs, and six dollars for twelve chickens, and pays twenty-five cents down to Mr. Grant "to bind the bargain." The payment and acceptance of the twenty-five cents binds both parties to fulfill the contract. We will suppose that this agreement took place on the third day of January, 1880, in the presence of James Johnson, and that Mr. Grant agreed to deliver all the chattels at Mr. Jones's "corral" on the next Monday. That on the fifth day of January, 1880, Mr. Grant delivered the chattels at Mr. Jones's "corral" and demanded payment of the balance of the purchase-money agreed upon, but Mr. Jones, not acting on the golden rule, refuses to pay. How will Mr. Grant obtain his pay? He must bring a suit for it, and as the value of all the chattels is less than two hundred dollars, he must bring his action in a Justice's Court, and in the town where Mr. Jones resides. There are two Justices of the Peace in Bodie, and Mr. Grant can bring his action before either, as he may choose. There are also two forms of complaint, either of which he can adopt, and file with the Justice of his selection ; but whichever form of complaint he may choose, it will be better for him to verify it, for should he not do so, Mr. Jones might file any kind of an answer without regard to the truth of it, and thus delay the collection of the money. But if the complaint be sworn to, the answer, to be of any value, must also be verified, or, when the time expires for answering, the Court will, on slight proof, or none at all, give judgment against the defendant.

We will now give the two forms of complaint suggested, verify them both, and let Mr. Grant, who will be called the "plaintiff," take his choice.

Form 8.—Account Filed as a Complaint.

		BODIE, Cal., Jan. 5, 1880.	
WM. JONES,	To AMOS GRANT,	Dr.	
Jan. 5, 1880, to one cow.....		\$60	00
“ “ to three pigs, @ \$5 each.....		15	00
“ “ to twelve chickens, 50 cts each.....		6	00
Total.....		\$81	00
		Cr.	
Jan. 3, 1880, by cash.....			25
Balance due.....		\$80	75

State of California, }
County of Mono, } ss.

Amos Grant, being first duly sworn, says that the above is a just, true and correct account of the indebtedness of William Jones to him, and that the sum of eighty dollars and seventy-five cents is now due affiant from said Jones, on the said account.

AMOS GRANT.

Subscribed and sworn to before me, this
7th day of January, A. D. 1880.

R. L. PETERSON,
Justice of the Peace.

Form 9.—Complaint.

In Justice's Court, Township of Bodie, County of Mono, and State of California, before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant, }
Plaintiff, }
vs. }
William Jones, }
Defendant. }

Amos Grant, the plaintiff above named, complains of William Jones, the defendant in this action, a resident of Bodie township, in Mono county, State of California, and for cause of action, says: That on or about the third day of January, 1880, at said town of Bodie, this plaintiff bargained, sold and delivered to said defendant, at defendant's special instance and request, certain chattels of the full value of eighty-one dollars in gold coin, to wit: one cow of the value of sixty dollars; three pigs of the value of fifteen dollars, and twelve chickens of the value of six dollars; that said defendant then and there undertook and promised to pay to plaintiff the *said sum of money* in gold coin whenever requested so to do; that plaintiff has often requested the defendant to pay the said sum of money; but to pay the same, or any part thereof, except the sum of twenty-five cents, the said defendant has hitherto wholly neglected and failed, and still does neglect and fail, to plaintiff's damage in the sum of eighty dollars and seventy-five cents in gold coin.

Wherefore, plaintiff demands judgment against said defendant for the sum of eighty dollars and seventy-five cents in gold coin, besides costs of this action.

AMOS GRANT.
by _____,
Attorney for Plaintiff.

State of California, }
 County of Mono, } ss.

Amos Grant, being duly sworn, says that he is the plaintiff in the above entitled action; that he has read the foregoing complaint and understands the contents thereof, and that the same is true of his own knowledge.

AMOS GRANT.

Subscribed and sworn to before me, this
 7th day of January, A. D. 1880.

R. L. PETERSON,
 Justice of the Peace.

Now one of the foregoing forms will answer just as well as the other, in a Justice's Court, for parties are not held to any great strictness of pleadings in these courts; but as the latter is really more finished than the former, and approaches more nearly to the perfection of complaints required in courts of record, we will suppose that the plaintiff, Mr. Grant, selects the latter form, and as he has already entitled his action in Justice Peterson's Court, and has sworn to his complaint before him, we will take it for granted that he brings his action in that court, which he does by filing the complaint, that is by letting the Justice write "Filed" on the back of the complaint, with the day and perhaps the hour, that it was handed to him, and signing his name thereto.

It may be well to say at this point that the affidavits at the bottom of the Forms 8 and 9, and Form 5, are called "Verifications." Form 5 verifies a petition on information and belief; the last two forms positively, and still another form of verification will appear in these pages, where an attorney, or some other person than the plaintiff, or defendant, will verify the complaint, or the answer.

The Justice having filed the complaint, the suit is actually commenced, but it is of no positive value until a summons is issued to give it activity.

The plaintiff, therefore, demands that a summons be issued on his complaint, which the Justice does in substantially the following:

Form 10.—Summons in a Justice's Court.

In Justice's Court of Bodie Township, County of Mono, and State of California. Before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant,	}
Plaintiff.	
vs.	
William Jones,	}
Defendant.	

The People of the State of California. To William Jones, Greeting:

You are hereby summoned to appear before me, at my office in the town of Bodie, in the County of Mono, on the thirteenth day of January, A.D. 1880, at ten o'clock A. M., to answer unto the complaint of Amos Grant, who sues you to recover the sum of eighty dollars and seventy-five cents in balance due from you upon a contract made on or about the third day of January, 1880, to wit: for certain chattels sold and delivered by said plaintiff to you, on or about said date, at your special instance and request, when judgment will be taken against you for the said amount, together with costs and damages, if you fail to appear and answer.

To the Sheriff or any Constable of said County, Greeting:

Make legal service and due return hereof.

Given under my hand this seventh day of January, A.D. 1880.

R. L. PETERSON,
Justice of the Peace of said township.

We will now suppose that Mr. Grant fears that when he obtains his judgment in the action, all the property of the defendant, Mr. Jones, will be secreted, while now, at the time of bringing his action, sufficient property of the defendant can be found to satisfy such judgment, when obtained, and desirous of securing the payment of his judgment, he determines to have an attachment issue to be served on the defendant's property.

To do this, he must make, and file with the Justice, an affidavit, which will be substantially in the following:

Form 11.—Affidavit for a Writ of Attachment.

In Justice's Court of Bodie Township, County of Mono, and State of California. Before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant,	} Plaintiff,
vs.	
Wm. Jones,	
	Defendant.

County of Mono, ss.

Amos Grant, the plaintiff in the above-entitled action, being duly sworn, says, that the above-named defendant is indebted to him, the said plaintiff, in the sum of eighty dollars and seventy-five cents, in gold coin, over and above all legal set-offs and counter-claims, upon an express contract for the direct payment of money; that such contract was made and is payable in this State, and that the payment of the same has not been secured by any mortgage on real or personal property; that the said sum, for which an attachment is hereby asked, is an actual, bona fide existing debt, due and owing from the said defendant to the said plaintiff, and that the said attachment is not sought, and the action is not prosecuted, to hinder, delay or defraud any creditor of the said defendant.

AMOS GRANT.

Subscribed and sworn to before me, this

7th day of January, A. D. 1880.

R. L. PETERSON,
Justice of the Peace.

But before a writ of attachment can be issued, the plaintiff must make out and file with the Justice an undertaking signed by two sufficient sureties, residents and householders or freeholders of the county in which the action is brought, which undertaking will be substantially as follows:

Form 12.—Undertaking for a Writ of Attachment.

In Justice's Court of Bodie Township, County of Mono and State of California. Before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant,	} Plaintiff,
vs.	
Wm. Jones,	
	Defendant.

Whereas the above-named plaintiff has commenced an action

in the above-entitled Court against the defendant above named, to recover from said defendant the sum of eighty dollars and seventy-five cents, and has made and filed in said court his affidavit in due form of law for the issuance of a writ of attachment in said action against the property of said defendant, and has demanded that such writ issue in said action; Now, therefore, we, the undersigned, do undertake and promise, that if the said writ of attachment issue, and the said defendant recover judgment, or if the attachment be dismissed, the said plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of such attachment, in any amount of money not exceeding the sum of two hundred dollars.

Witness our hands and seals hereto affixed, this 7th day of January, 1880.

IRA NOAKES. [SEAL.]

SAM'L OAKS. [SEAL.]

Form 13.—Justification of Sureties.

State of California, }
County of Mono. } ss.

Ira Noakes and Samuel Oaks, sureties on the above undertaking, being first duly sworn, say, each for himself and not one for the other, that he is a resident and householder [or freeholder] in said Mono County, and is worth the sum of two hundred dollars over and above his just debts and legal liabilities and property exempt from execution.

IRA NOAKES,

SAM'L OAKS.

Sworn and subscribed before me,
this 7th day of January, A. D. 1879.

R. L. PETERSON,
Justice of the Peace.

Upon the filing of the undertaking, if the Justice approves it, he will indorse upon it "Approved," and sign his name to such approval. He will then issue a writ of attachment, which will be substantially in the following:

Form 14.—Of Writ of Attachment from Justice's Court.
 In Justice's Court of Bodie Township, County of Mono, and
 State of California, before R. L. Peterson, Esq., Justice
 of the Peace.

Amos Grant,	} Plaintiff,
vs.	
Wm. Jones,	
	Defendant.

The People of the State of California* to the Sheriff or any
 Constable of the County of Mono, Greeting;

You are hereby commanded to attach, and safely keep, all
 the property of the above-named defendant within this county,
 not exempt from execution, or so much thereof as may be suffi-
 cient to satisfy the plaintiff's demand, to wit, the sum of eighty
 dollars and seventy-five cents, besides the costs; unless said de-
 fendant shall give you security by an undertaking in two suffi-
 cient sureties, for said amount and costs; in which case you will
 take such undertaking.

Make due return hereof.

Given under my hand, and dated at Bodie township, on the
 7th day of January, A. D. 1880.

R. L. PETERSON,
 Justice of the Peace of said township.

The Constable or his deputy will now take the summons
 and the writ of attachment and serve them upon the defend-
 ant and on his property, as required by the statute, taking
 personal property into his possession; but, as this book is
 intended only to aid people generally, and not to point out
 the duties of executive officers, no directions will here be
 given for the service of papers, except such, perhaps, as peo-
 ple must serve themselves. We will suppose, however, that
 Mr. Jones does not wish to have his property taken out of
 his possession, and that, to prevent this, he gives the Con-
 stable the undertaking mentioned in the writ of attachment.
 If so, the undertaking will be, substantially, in the
 following:

* In Nevada the style of the process is, "The State of Nevada," instead
 of "The People," etc. The Constitution of a State determines "the style
 of its process," and if any writ, summons, or other "process," is in any
 other style or words than those prescribed by the Constitution of the State
 in which it is issued, the process is *void*.

Form 15.—Undertaking for Release of Attachment.

In Justice Court of Bodie Township, County of Mono, and State of California. Before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant,	} Plaintiff,
vs.	
William Jones,	
Defendant.	

Know all men by these presents that we, William Jones as principal, and John Doe and Richard Roe as sureties, all of the County of Mono and State of California, are held and firmly bound unto Amos Grant in the sum of two hundred dollars, to be paid to the said Amos Grant, his heirs, executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, by these presents.

Sealed with our seals, and dated this seventh day of January, A. D. 1880.

Now, the condition of this obligation is such that, whereas, a writ of attachment has issued against the above bounden defendant, William Jones, at the suit of Amos Grant, the plaintiff above named, and whereas, certain goods and chattels of said William Jones have been attached under and by virtue thereof: Now, in consideration of the release of said goods and chattels from such attachment, if the said Wm. Jones shall well and truly pay any judgment and costs that the said Amos Grant may recover against him, the said Wm. Jones, then this undertaking shall be null and void, but otherwise it shall be and remain in full force and effect.

WM. JONES.	[SEAL.]
JOHN DOE.	[SEAL.]
RICHARD ROE.	[SEAL.]

Immediately after which must follow the justification of the sureties, John Doe and Richard Roe, as shown in Form numbered 13.

If, within five days (in California) after the summons has been served on the defendant—not counting the day on which such service was made—the defendant does not file an answer to the complaint (which, in this case, we will presume he will not do), the Justice will enter a judgment in his docket in favor of the plaintiff and against the defendant, in substantially the following:

Form 16.—Judgment in Justice's Court.

In Justice's Court of Bodie Township, County of Mono, and State of California. Before R. L. Peterson, Esq., Justice of the Peace.

Amos Grant,	}	Plaintiff,
va.		
William Jones,		
Defendant.		

Now, on this fourteenth day of January, 1880, the above cause being called and no one appearing on behalf of the defendant, his default to answer in said action is duly entered by the Court; whereupon, it appearing, to the satisfaction of the Court, that the summons in said action was duly served on said defendant on the seventh day of January, 1880, in the said township of Bodie, and that the Court has jurisdiction of said action, and it further appearing to the Court, from the [verified] complaint of the plaintiff, that the sum of eighty dollars and seventy-five cents in gold coin is due to said plaintiff from the said defendant: Now, in consideration of the premises, it is ordered and adjudged by the Court that the said plaintiff, Amos Grant, do have and recover of and from the said defendant, William Jones, the sum of eighty dollars and seventy-five cents in gold coin, with legal interest from this date, besides the costs of this action, herein taxed at — dollars, together with accruing costs.

Judgment rendered and entered this fourteenth day of January, A. D. 1880.

R. L. PETERSON,
Justice of the Peace for said Township.

An execution can now be demanded by the plaintiff, and by virtue of such execution the Constable will levy on and sell any property of the defendant that he can find, unless some of such property be exempt from execution; and should sufficient property be levied on and sold to satisfy the judgment and costs, the judgment must be satisfied by an entry of the fact at the bottom or on the margin of the judgment in the docket of the Justice; but if no property of the defendant be found, Mr. G. will have to bring another action on the undertaking given by the sureties on the release of the attachment, unless the sureties pay the judgment voluntarily.

The foregoing gives an outline of proceedings in an action at law in any court; for the great difference between Justices' Courts, and District, and Superior Courts, is that Justices' Courts have no jurisdiction; or, in other words, can not act in cases where the amount claimed exceeds three hundred dollars, exclusive of interest, and are not considered Courts of Record; while Superior and District Courts can act in all cases where the amount claimed exceeds three hundred dollars; and are called Courts of Record. Justices of the Peace, however, must keep a record of all judicial proceedings had before them, in a book called the "Justices' Docket," and as more real business is done in Justices' Courts than in any others, and as just as important questions of law have to be decided by Justices of the Peace as are decided by the higher Courts, the people should be careful to select for their Justices men who are well acquainted with the laws of the State in which they are to act; and right here, fearing that some person in Nevada may be misled by what has been said concerning process, and the words, "The People of the State of California," in the summons and attachment which were set out in the supposed case above, it is proper to add that in the place of those words in Nevada, these words would be used, "The State of Nevada;" and if other words be used than those directed by the Constitution of the State, the process, as it is called, would be void, and the Court from which it purported to issue would not acquire jurisdiction. The style of process in California is, "The People of the State of California."

The style of process in Nevada is, "The State of Nevada."

A summons for a case in a District Court of the State of Nevada will be set out in some proper case hereafter.

CHAPTER V.

JURISDICTION OF CALIFORNIA COURTS.

THE jurisdiction of the different Courts is determined by the Constitution of a State, and in California, by virtue of its New Constitution, Justices of the Peace have concurrent jurisdiction with the Superior Courts, in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on *personal property*, when neither the amount of the liens nor the value of the property amounts to three hundred dollars. They also have such further jurisdiction over amounts in controversy, less than three hundred dollars, as the Legislature of the State may prescribe.

By the same Constitution the Superior Courts have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for.

They also have the power of naturalization, and to issue papers therefor. They have appellate jurisdiction in such cases arising in justices' and other inferior Courts, in their respective counties, as may be prescribed by law. These Courts are always open except on legal holidays and non-judicial days, and their process extends to all parts of the State; but all actions for the recovery of the possession of, or quieting the title to, or for the enforcement of liens upon real estate, must be commenced in the county in which the

real estate, or any part thereof affected by such action or actions, is situated.

These Courts also have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on the petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition, may be issued and served on legal holidays and non-judicial days.

By virtue of the same Constitution, the Supreme Court has *appellate* jurisdiction in all cases in equity, *except such as arise in Justices' Courts*; also in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also in cases of forcible entry and detainer, and in proceedings in insolvency and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also in all criminal cases prosecuted by indictment, or information in a Court of Record on questions of law alone. This Court also has power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction; besides which, each of its Justices has power to issue writs of habeas corpus to any part of the State upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the State, or before any Judge of such Superior Court.

Before dismissing the subject of the jurisdiction of the Courts it may be well to state that every fact necessary to give jurisdiction to a Justice of the Peace should be affirmatively shown, for, on appeal, the higher Courts will presume nothing in favor of the Justices' Courts. In Courts of Record a different rule prevails, for there every presumption of the Appellate Court will be in favor of the lower Courts. This shows the importance of perfect conformity to law in the Justices' Courts, and the propriety of electing to the important office of Justice of the Peace, men who understand the law, and who will administer it faithfully.

CHAPTER VI.

FORMS OF COMPLAINTS.

Having stated in chapter V, the constitutional jurisdiction of the different Courts, under the new Constitution of California, and premising that Justices' Courts and the Supreme Court of Nevada have similar jurisdiction to the Courts of the same name in California, while the jurisdiction of the District Courts in Nevada corresponds to that of the Superior Courts in California, it would be easy for most persons to determine from the reading of the following complaints, in what Court the action or proceeding should be had, even if there were no title to the former, serving as a guide.

Complaints, answers, and demurrers, are called *pleadings* in legal proceedings. A complaint is a formal statement in writing, and in ordinary and concise language, of the facts which constitute a cause of action, made by a person who brings the suit, and is called a "plaintiff," against some other person, who is called a "defendant."

An answer is a statement, generally in writing, made by the "defendant," of facts which he may believe to constitute a defense against the complaint of the "plaintiff."

A demurrer is an objection, in writing, to the *legal* sufficiency of the complaint, when made by the defendant; or to the legal sufficiency of the answer, when made by the plaintiff.

When complaints fail to state *legal* causes of action, or fail to comply with the legal requirements of a complaint, they will be successfully demurred to; and when answers fail in like particulars, they, too, will prove of no value unless amended.

Pleadings in Justices' Courts are often oral, particularly answers; and pleadings in those Courts are not held to the same strictness as pleadings in Courts of Record.

Let us now suppose that a firm or partnership consisting of William Irwin and J. W. Stewart, does a lumbering business in the town of Bodie, Mono County, California,

under the name of J. W. Stewart & Co., and that such firm sold lumber to J. W. Crocker some time in August, 1879, amounting in value to one hundred and thirteen dollars and fifty-three cents. That Mr. Crocker promised to pay for the lumber in September following, and that failing to do so, on the fifth day of October, 1879, the firm brought suit against him to recover the amount. The complaint might read thus:

Form 17.—For Merchandise Sold and Delivered.

In Justice's Court of Bodie Township, County of Mono and State of California, before Thos. Newman, Esq., Justice of the Peace. Wm. Irwin and J. W. Stewart, partners, doing business under the firm name and style of

J. W. Stewart & Co.,	} Plaintiffs,
va.	
J. W. Crocker,	
	Defendant.

The above-named plaintiff, Wm. Irwin and J. W. Stewart, partners, doing business under the firm name and style of J. W. Stewart & Co., complain of the defendant above mentioned, J. W. Crocker, and for cause of action say:

That between the first day of August and the first day of September of A. D. 1879, at the Town of Bodie, County of Mono and State of California, the plaintiffs bargained, sold, and delivered to said defendant, at defendant's special instance and request, certain merchandise, to wit: lumber and materials of the full value of one hundred and thirteen dollars and fifty-three cents in gold coin;

That in consideration of said sale and delivery, the said defendant then and there undertook and promised to pay the said sum of money to plaintiffs whenever thereafter requested so to do;

That plaintiffs have often requested the defendant to pay said sum, but to pay the same, or any part thereof, defendant has hitherto wholly neglected and failed, and still does neglect and fail, to plaintiff's damage, in the sum of one hundred and thirteen dollars and fifty-three cents.

Wherefore, plaintiffs demand judgment against said defendant for the sum of one hundred and thirteen dollars and fifty-three cents, in gold coin, besides costs of this action.

H. A. G———,
Attorney for Plaintiffs.

Form 18.—Verification by a Book-keeper.

State of California }
County of Mono. } ss.

Geo. H. Winterburn, being duly sworn, says that he is clerk and book-keeper of the plaintiffs above named, and was such at the times stated in the foregoing complaint, and when said lumber and materials were sold and delivered to said defendant, as therein stated; that he has read the said complaint, and understands the contents thereof, and that the same is true of his own knowledge, wherefore he verifies the same.

G. H. WINTERBURN.

Subscribed and sworn to before me,
this fifth day of October, A. D. 1879.

THOS. NEWMAN,
Justice of the Peace.

In connection with the foregoing complaint, it will be proper to say that, by virtue of the general rules of law, the names of all the partners constituting a firm, must, if the company (*i. e.*, the partnership) brings suit, be set out in the complaint; but by virtue of a statute of Nevada, if the *defendants* be a partnership, and the names of the partners constituting the firm be unknown to the plaintiff, he may bring suit against them under the name by which they are generally known. In most States, however, where the names of persons constituting a partnership are unknown to the plaintiff, he may use fictitious names for the partners, in his complaint, and when he discovers their real names, ask the Court to substitute the real for the fictitious names; and this practice would be good and safe in Nevada, notwithstanding the statute.

Fearing that the California Forms of process which have been given, may mislead some person in the State of Nevada, or some other State or Territory, the style of a simple form of complaint, with a summons and a writ of attachment proper in the State of Nevada, will now be given, premising that for purposes of illustration any familiar and treasured names are used freely in this work, but without malice or unkind thought.

Form 19.—Complaint against Makers and Indorser of a Promissory Note.

In the District Court of the First Judicial District of the State of Nevada, in and for the County of Storey.

The Nevada Bank of San Francisco, a Corporation,	}	Plaintiff,
vs.		
A. M. Peters, G. H. Peters, and Wm. Myers.		
		Defendants.

The Nevada Bank of San Francisco, plaintiff above named, complains of A. M. Peters, G. H. Peters and Wm. Myers, and for cause of complaint alleges:

That plaintiff is, and at the times hereinafter mentioned was, a corporation duly organized and existing under and by virtue of the laws of the State of California, engaged in the business of banking, selling exchange, receiving deposits, and of loaning money in said State, and also in the State of Nevada.

That on the third day of October, A. D. 1878, the defendants, A. M. Peters and G. H. Peters, by their promissory note, promised to pay to the defendant, Wm. Myers, or order, at the agency of the Nevada Bank of San Francisco in the City of Virginia, County of Storey, and State of Nevada, on the third day of November, A. D. 1878, three hundred and eighty-four dollars (\$384.00) in gold coin of the United States, with interest in like gold coin, from date, at the rate of one and one half ($1\frac{1}{2}$) per cent. per month until paid, payable monthly, and if not so paid, to become part of the principal, and bear like rate of interest.

That prior to the maturity of said note, the said Wm. Myers indorsed the same to the plaintiff, and at the same time made upon the back of said note the following indorsement, to wit: "For value received, I hereby waive presentation of this note to the makers, demand of payment, protest, and notice of non-payment.

"WM. MYERS."

That defendants, or either of them, have not paid said note and interest, or any part thereof.

Wherefore plaintiff demands judgment for the sum of three hundred and eighty-four dollars principal sum, besides interest, as provided in said note, all in gold coin of the United States, and for costs of this action.

JOHN KNOX BROWN,
Plaintiff's Attorney.

Form 20.—Verification by an Attorney.

State of Nevada, }
 County of Storey, } ss.

John Knox Brown, being duly sworn, says that he is attorney for the plaintiff in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on information or belief, and as to those matters, that he believes it to be true, and that the reason why he verifies this complaint is because there is not at this date any officer of said corporation, plaintiff, in the said county of Storey.

JOHN K. BROWN.

Subscribed and sworn to before me, this
 twenty-first day of April, A. D. 1879.

ROBT. E. LOWERY,
 Notary Public, Storey County.

We will now suppose that the foregoing complaint is filed with the clerk of the District Court for Storey County, and that a summons issued thereon in the following:

Form 21.—Summons in District Court.

[BANCROFT'S BLANK, No. 613.]

In the District Court of the first Judicial District of the State of Nevada, in and for the county of Storey.

The Nevada Bank of San Francisco, a Corporation,	} Plaintiff,
va.	
A. M. Peters, G. H. Peters, and Wm. Meyers,	
Defendants.	

Action brought in the District Court of the First Judicial District of the State of Nevada, in and for the county of Storey, and the complaint filed in said county in the office of the clerk of said District Court, on the twenty-first day of April, A. D. 1879.

The State of Nevada sends greeting to A. M. Peters, G. H. Peters and Wm. Meyers, defendants.

You are hereby required to appear in an action brought against you by the above-named plaintiff in the District Court of the First Judicial District of the State of Nevada, in and for the county of Storey, and answer the complaint filed therein within ten days (exclusive of the day of service) after the service on you of this summons, if served in said county, or, if

served out of said county, within twenty days ; and in all other cases, forty days, or judgment by default will be taken against you according to the prayer of said complaint.

The said action is brought to obtain a judgment of said Court against you, defendants, for the sum of three hundred and eighty-four dollars, principal sum and interest thereon as provided in your promissory note, hereinafter mentioned, all in United States gold coin, and for costs of the action. For cause of action plaintiff alleges, that on the third day of October, A. D. 1878, you, defendants, A. M. Peters, and G. H. Peters, promised to pay to the defendant, Wm. Meyers, or order, at the agency of plaintiff in the city of Virginia, county and State aforesaid, on the third day of November, A. D. 1878, the sum of three hundred and eighty-four dollars in United States gold coin, with interest in like coin thereon from the date of said note, at the rate of one and one half per cent. per month till paid, payable monthly, and if not so paid to become part of the principal and bear a like rate of interest ; that prior to the maturity of said note the said defendant, Wm. Meyers, for value received, indorsed the said note to plaintiff and waived presentation to makers, demand of payment, protest, and notice of non-payment ; that defendants, or either of them, have not paid said note and interest or any part thereof ; all of which will more fully appear by reference to plaintiff's complaint on file herein, a copy of which is served herewith. And you are hereby notified that, if you fail to answer the complaint, the plaintiff will take judgment against you for the sum of three hundred and eighty-four dollars in United States gold coin, with interest and costs as aforesaid.

Given under my hand and the seal of the District Court of the First Judicial District of the State of Nevada, in and for the county of Storey, this twenty-first day of April, in the year of our Lord one thousand eight hundred and seventy-eight.

JOS. E. McDONALD, Clerk.

[SEAL.]

By HENRY ROLFE, Deputy Clerk.

We will suppose further, that the plaintiff, by its attorney, files an affidavit and an undertaking, as required by the statute (both of which will be similar in form to those already given in the proceeding before described in the Justice's Court), and that a writ of attachment issues in the following:

Form 22.—Attachment in the State of Nevada.

In the District Court of the First Judicial District of the State of Nevada, in and for the County of Storey.

The Nevada Bank of San Francisco,
a Corporation,

Plaintiff,

vs.

A. M. Peters, G. H. Peters, and
Wm. Meyers,

Defendants.

The State of Nevada, to the Sheriff of Storey County, greeting:

Whereas, the above-entitled action was commenced in the First Judicial District of the State of Nevada, in and for the County of Storey, by the above-named plaintiff against the above-named defendants, to recover from the said defendants the sum of three hundred and eighty-four dollars, with interest at one and one half per cent. per month from the third day of October, A. D. 1878, making about the sum of four hundred and twenty-eight dollars and sixty-six cents in United States gold coin, and costs of suit; and the necessary affidavit and undertaking herein having been filed as required by law;

Now we do command you, the said Sheriff, that you attach and safely keep all the property of said defendants, or either of them, within your said County (not exempt from execution), or so much thereof as may be sufficient to satisfy said plaintiff's demand, as above mentioned, in United States gold coin, unless the said defendants give you security, by the undertaking of at least two sufficient sureties, in an amount sufficient to satisfy such demand, besides costs, in which case you will take such undertaking, and hereof make due and legal service and return.

Witness my hand and seal of the said District Court of the First Judicial District, this twenty-first day of April, A. D. 1879.

JOS. E. McDONALD, Clerk.

By HENRY ROLFE, Deputy Clerk.

Under the codes both of California and Nevada there is but one form of civil action, and under each code the complaint must state the cause of the action in ordinary language and in concise and simple terms, and yet different causes of action, when founded on like bases and between the same parties, may and should be joined in the same complaint when they arise from the same transaction and between the same parties. For instance, a complaint may unite several promissory notes held by one party against another, or may unite a book account and a promissory note

against a party, in one complaint, when the basis of the indebtedness is similar, and so with other causes of action.

But, although the codes provide that there shall be but one form of action, there are different classes of action, and these different classes can not be joined in the same complaint; besides which there are certain words applying to different classes of action, which must be used in the complaint, or it will be of no value if objected to by a defendant, and would require to be amended. For instance, a party who sues for wages must allege that a certain amount is due him from the defendant "for work and labor done and performed by him for the defendant," between certain dates, "at the special instance and request of the defendant;" while a party who loans money to another without taking a promissory note for it, should, in his complaint, allege that "the defendant," on or about a certain time, "had and received" certain moneys (naming the amount) from the plaintiff, "at the defendant's special instance and request, and then and there undertook and promised to pay to plaintiff the said sum of money whenever requested to do so," or at some certain date, if the promise were so made.

The foregoing remarks are deemed proper for the purpose of directing the attention of non-professional readers, for whose benefit this work has been more especially prepared, to the peculiarities of the following forms of complaint as well as the preceding; for although these forms appear to be different, they are really of the same form, and differ in certain *necessary technical* words only, and as different matters of action are treated of.

Form 23.—Complaint on Account for Goods Sold and Delivered.

In the District Court of the First Judicial District of the State of Nevada, in and for the County of Storey.

Hiram Oaks,	} Plaintiff,
vs.	
David Noakes,	
Defendant.	}

Hiram Oaks, the plaintiff in the above-entitled complaint, complaining of David Noakes, the above-named defendant, alleges:

That between the — day of —, A. D. 1878, and the — day of —, 1879, at the County of Storey above named, the said defendant, for and in consideration of certain goods, wares and merchandise sold and delivered by plaintiff to said defendant between the dates above named, at the special instance and request of said defendant, undertook and promised to pay to plaintiff the reasonable worth and value of said goods, wares and merchandise, whenever requested so to do; That the reasonable worth and value of said goods, wares and merchandise, is the sum of — dollars, in gold coin; That though often requested to pay the said sum of money, the said defendant has hitherto neglected and failed to pay the same, or any part thereof, except the sum of — dollars, on or about the — day of —, and the further sum of — dollars, on or about the — day of —, to the damage of plaintiff in the sum of — dollars; which sum, with interest thereon from the — day of —, A. D. 1879, is now due and unpaid. Wherefore plaintiff prays judgment against said defendant for the sum of — dollars, in gold coin, together with interest thereon from the — day of —, A. D. 1879, at the rate of ten per cent. per annum until the same shall be paid, with costs of suit.

A—— B——,

Attorney for plaintiff.

The complaint and all the following should be verified, but as several forms of verification have been given, and one other form will be added, it will be unnecessary to repeat the verifications. A different form of complaint for goods sold and delivered will be given hereafter. In the foregoing, any person of ordinary intelligence will see how the blanks should be filled. If the defendant in a case like the above should demand the items of the account, they must be furnished him within five days, or no evidence of them can be given in Court.

Form 24.—Complaint on a Promissory Note against Maker.

In the Superior Court of the State of California in and for the County of Yolo.

John Jones,	} Plaintiff.
vs.	
Peter Holmes,	
Defendant.	}

The plaintiff above named, John Jones, complains of the

above-named defendant, and for cause of action alleges, that on or about the — day of —, A. D. 1879, the said defendant, for value received therefor, made his certain promissory note in writing, bearing date on that day, and delivered the same to this plaintiff, which promissory note is in the words and figures following, to wit:

[Set out an exact copy of the note.]

and then and there undertook, and promised to pay the said sum of money named in said promissory note, with interest thereon, at the time and in the manner therein stipulated; that plaintiff is now the holder and owner of said note, and that no part thereof, nor of the interest thereon has been paid, and that there is now due and unpaid to plaintiff on said promissory note the sum of — dollars, with interest thereon at the rate of — per cent. per month [the rate named in the note], from the — day of — A. D. 1879.

Wherefore plaintiff demands judgment against said defendant for the sum of — dollars [in gold coin if so stated in the note], with interest thereon from the — day of —, A. D. 1879, until the same shall be paid [in like gold coin], and for costs.

A———B———,

Attorney for Plaintiff.

The complaint should be verified.

Form 25.—Complaint on Foreclosure of Mortgage.

[BANCROFT'S BLANK, No. 536.]

In the Superior Court of the State of California, in and for the County of Santa Clara.

Ira Meek,	} Plaintiff.
va.	
William Deek,	
	Defendant.

Ira Meek, the plaintiff in the above-entitled action, complains of William Deek the above-named defendant, and for cause of action alleges:

That on or about the — day of —, A. D. 1879, at the city of San Jose, in the County of Santa Clara, and State of California, the said defendant made his certain promissory note in writing, bearing date on that day, in the words and figures following, to wit:

[Set out here a copy of the note, figure for figure and word for word. Be exact in copying any instrument of writing.]

and then and there delivered the same to this plaintiff, and did then and there undertake and promise to pay to plaintiff the sum of [whatever sum is named in the note], with interest thereon at the rate of — per cent. per month from the date thereof, as and at the time named in said promissory note.

That the said defendant, to secure the payment of the said principal sum and the interest thereon as mentioned in said promissory note according to the tenor thereof did execute under his hand [and seal], and deliver to plaintiff, then and there, a certain mortgage bearing date on said — day of —, A. D. 1879, conditioned for the payment of the said sum of — dollars — and interest thereon at the rate and at the time, and in the manner specified in said promissory note and mortgage, and according to the conditions thereof, which said mortgage was duly acknowledged and certified, so as to entitle it to be recorded, and the same was afterwards, to wit, on the — day of —, A. D. 1879, duly recorded in the office of the County Recorder of the County of Santa Clara, in Liber — of mortgages, pages — and —; a copy of which said mortgage, with the indorsements thereon is hereunto annexed, marked Exhibit A, and made a part of this complaint, by which mortgage the said defendant covenanted, promised and agreed to and with plaintiff, as stated in said mortgage.

And plaintiff avers that he is still the holder and owner of said promissory note and mortgage, and that the principal sum of — dollars mentioned in said instruments, together with interest thereon at the rate of — per cent. per —, from the — day of —, A. D. 1879, still remains due and unpaid from said defendant to this plaintiff.

[If there be other mortgages or liens on the land described in the mortgage, the holders' names should be added to the title of the action, and a clause should be here added to the complaint similar to the following, and the holders of such liens should be served with process, and made parties to the action. And plaintiff avers that he is informed and believes that — and — have, or claimed to have, some interest or claim upon said premises, as purchasers, mortgagees, judgment-creditors, or otherwise, which interests or claims, the plaintiff alleges are subsequent to, and subject to, the lien of plaintiff's said mortgage.]

Wherefore, the plaintiff prays judgment against the said defendant, Wm. Deek for the sum of — dollars, with interest thereon, at the rate of — per cent. per —, from the

— day of —, 1879, and for costs of suit; That the usual decree be made that the premises described in the said mortgage be sold by the Sheriff of said Santa Clara County, according to law and the practice of the Court; That the proceeds of said sale be applied in payment of the amount due to the plaintiff on such judgment; That said plaintiff may have execution against defendant for any deficiency which may remain after applying all the proceeds of the sale of said premises properly applicable to the judgment herein; That the plaintiff, or any other person, may become purchaser at the sale of said premises; That if the same be not redeemed according to law, the Sheriff execute a deed to the purchaser thereof; That such purchaser be let into the possession of the said premises on production of the Sheriff's deed therefor; and that plaintiff and his successors in interest herein may have such further relief in the premises as to this Court may seem meet and agreeable to equity.

G. H. A—,

Attorney for Plaintiff.

The complaint should be verified.

Form 26.—Complaint in Ejectment.

[BANCROFT'S BLANK, No. 531.]

In the District Court of the Second Judicial District of the State of Nevada, in and for the County of Washoe.

Jonas Benlow,	} Plaintiff,
vs.	
Solon Henshaw,	
Defendant.	

The plaintiff in the above-entitled action complains of the above-named defendant, and for cause of action avers:

That on the — day of —, A. D. 188—, plaintiff was lawfully possessed as owner in fee-simple of that certain lot, piece and parcel of land situate in said County of Washoe, and State aforesaid, bounded and described as follows, to wit:

[Here insert correct description of the land, giving proper metes and boundaries;]

That the plaintiff being so possessed, and ever since the time above mentioned, entitled to the possession of said land, the said defendant did, afterwards, to wit: on said — day of —, A. D. 188—

[Insert the same day mentioned above],

enter into the possession of the said premises and *oust* the

plaintiff therefrom, and ever since said time has unlawfully withheld and now does unlawfully withhold, the possession thereof from this plaintiff, to plaintiff's damage in the sum of — dollars in gold coin.

And plaintiff further avers that the value of the rents, issues, and profits of the said premises from the said — day of —, 188—, and while the plaintiff has been excluded therefrom by said defendant is, — dollars in gold coin, in which sum he alleges that he has sustained damages herein.

Wherefore the plaintiff prays judgment against said defendant for the restitution of the above-described premises, and for the sum of — dollars for the withholding thereof, together with the sum of — dollars, the value of said rents and profits, and for costs of suit, all in gold coin.

A. G. H. —,
Attorney for Plaintiff.

The complaint should be verified.

Form 27.—Complaint on Claim and Delivery of Personal Property.

[BANCROFT'S BLANK, No. 528.]

In the District Court of the Third Judicial District of the State of Nevada, in and for the County of Lyon.

James Titus,	} Plaintiff,
vs.	
John Bitus,	
Defendant.	}

James Titus, in this action, complains of John Bitus, and for cause of action alleges:

That on the — day of —, A. D. 1879, at the County of Lyon, and State of Nevada, the plaintiff was possessed and entitled to the possession of the following described goods and chattels, of the value of — dollars in gold coin, to wit:

[Describe the property, and state the value of each article, if convenient, as nearly as can be done.]

and that plaintiff ever since said time has been, and now is, entitled to the possession of the same;

That on the — day of —, 1879 [giving the same date as above], at the County of Lyon aforesaid, the said defendant, John Bitus, without the consent of plaintiff, forcibly and wrongfully took said goods and chattels from the possession of plaintiff;

That before the commencement of this action, to wit: on the — day of —, 1879, the plaintiff demanded the possession of said goods and chattels of said defendant, but to deliver the possession thereof the defendant refused and still refuses;

That defendant still wrongfully withholds and detains said goods and chattels from the possession of plaintiff, to plaintiff's damage in the sum of — dollars [the value of the chattels];

That the value of said goods and chattels is the sum of — dollars.

Wherefore, the plaintiff demands judgment against said defendant for the recovery of the possession of said goods and chattels; or in case a delivery thereof cannot be had, for the sum of — dollars, the value thereof, together with — dollars damages, and costs of suit, all in gold coin.

H. G.—,

Attorney for Plaintiff.

The complaint should be verified, and if the plaintiff desires to take the property again into his possession forthwith, he must give an undertaking as required by the statute, with two good and sufficient sureties, and must deliver to the sheriff, or other officer serving the papers, such undertaking, and an affidavit made by himself, or by some person in his behalf, with an indorsement in writing thereon by himself or his attorney, requiring the officer to take the goods and chattels into his possession. The affidavit should be substantially in the following:

Form 28.

[BANCROFT'S FORM, No. 695.]

Title as in Form 27, then as follows:

County of Lyon, ss.

James Titus, being first duly sworn, says that he is the plaintiff in the above-entitled action; that he is the owner [or is entitled to the possession], of the following described goods, chattels and property, to wit:

[Here describe the property particularly.]

That said property is wrongfully detained from the possession of the plaintiff by said defendant; that according to the best knowledge, information and belief of affiant, said defendant claims to hold said property by virtue of:

[Here state the alleged cause of the detention of the property.]

That the said property has not been taken for a tax, assess-

ment or fine pursuant to a statute, or seized under an execution or an attachment against the property of the plaintiff [or, if so seized, that it is exempt by statute from such seizure]; and that the actual value of said property is — dollars.

Sworn to and subscribed before me, this — day of —,
A. D. 1879.

T. R. HAWKINS,
Justice of the Peace in said Co.

Form 29.—Complaint of a Payee of a Bill of Exchange against the Acceptor.

In the Superior Court of the State of California, in and for the
County of Nevada.

T. D. James,	} Plaintiff,
vs.	
A. B. Ames,	
	Defendant.

T. D. James complains, in this action, of A. B. Ames, a resident of said County of Nevada, and, for cause of action, alleges:

That, on the — day of —, 1879, at the County of —, State of —, one Amos Aaron made his certain bill of exchange in writing, directed to the defendant, and bearing date on the day above named, in the words and figures following, to wit:

[Set out the bill verbatim by copy.]

and then and there delivered the said bill of exchange to this plaintiff;

That, on the — day of —, 1879, at — —, the said defendant, upon sight thereof, accepted said bill of exchange in writing, signed by the said defendant, in the words and figures following, to wit:

[Set out the exact words and figures of the acceptance.]

That plaintiff is the lawful owner and holder of said bill of exchange, and that no part of the same has been paid; that there is now due from the said defendant to this plaintiff the sum of — dollars, with interest thereon from the — day of — [the day of acceptance], 1879, at the rate of — per cent. per annum.

Wherefore plaintiff demands judgment against said defendant for the sum of — dollars, with interest thereon at the rate of — per cent. per annum from the — day of —, 1879, and for costs of suit.

JAMES APPLE,
Attorney for Plaintiff.

The complaint should be verified.

Form 30.—Complaint for Conversion of the Property of Another.

In the Superior Court of the State of California, in and for the County of Butte.

Wm. B. Lathrop,	} Plaintiff,
vs.	
Hiram Marvin,	
	Defendant.

Wm. B. Lathrop, in this action, complains of Hiram Marvin, a resident of said Butte County, California, and alleges:

First. That, at the times hereinafter mentioned, this plaintiff was lawfully possessed, as of his own property, of certain goods and chattels at a place in said county known as the "Union Claim," on Main Feather River, consisting of five hundred and twenty sticks of timber, eight by eight, etc., all of the same having been used in fluming the Union claim, a mining claim on said river, and being of the value of two thousand dollars.

Second. That, on or about the thirteenth day of December, A. D. 1879, at the Union claim aforesaid, the defendant then and there being in possession of said goods and chattels, unlawfully converted and disposed of the same to his own use, to plaintiff's damage in the sum of two thousand dollars.

Wherefore plaintiff demands judgment against said defendant for the sum of two thousand dollars, besides costs of suit.

JAMES HANDY,

Attorney for Plaintiff

The complaint should be verified.

Form 31.—Complaint on a Promissory Note where Different Payments have been Made.

In the District Court of the Sixth Judicial District of the State of Nevada, in and for the County of Eureka.

Elias Garst and James E. Galloway, copartners, doing business under the firm name and style of Garst & Galloway,	} Plaintiffs,
vs.	
John F. Miller,	
	Defendant.

Elias Garst and James E. Galloway, copartners, doing business under the firm name and style of "Garst & Galloway," in this action complain of John F. Miller, the defendant above named, a resident of Eureka County, State of Nevada, and for

cause of action allege; That on or about the 16th day of May, A. D. 1877, the said defendant made his certain promissory note in writing, bearing date of that day, and delivered the same to these plaintiffs, who are still the owners and holders thereof, by which note the said defendant, for value received, promised to pay to the order of plaintiffs, one day after the date thereof, the sum of five hundred and five dollars, with interest thereon at the rate of two and one half per cent. per month, and which promissory note is in the words and figures following, to wit:

\$505.00.

One day after date, for value received, I promise to pay to the order of Garst & Galloway the sum of five hundred and five dollars, with interest from date at the rate of two and one half per cent. per month until paid.

JOHN F. MILLER.

Eureka, Nevada, May 16th, 1877.

That the said promissory note has matured, and the principal sum named therein, together with interest thereon as agreed in said note, from said sixteenth day of May, 1877, are now due on said note and payable to plaintiffs, except the sum of twenty dollars, paid thereon on said sixteenth day of May, 1877, and the further sum of eighty-five dollars, paid thereon on the second day of July, 1877;

That defendant has often been requested to pay the balance due on said note, but to pay the same or any part thereof the said defendant has hitherto wholly neglected and failed, and still does neglect and fail, to plaintiffs' damage, in the sum of four hundred and eighteen dollars and eighteen cents, with interest thereon at the rate of two and one half per cent. per month from the second day of July, A. D. 1877, until the same shall be paid.

Whereof plaintiffs demand judgment against said defendant for the sum of four hundred and eighteen dollars and eighteen cents, with interest thereon at the rate of two and one half per cent. per month from the second day of July, A. D. 1877, until the same shall be paid, together with costs of suit.

C. G. H——,

Attorney for plaintiffs.

The complaint should be verified.

Form 32.—Complaint for Goods Sold and Delivered.

In the District Court of the Second Judicial District of the
State of Nevada, in and for the County of Ormsby.

L. A. Bickford and C. S. Fassett, partners, doing business under the firm name and style of L. A. Bickford & Co.,	} Plaintiffs,	
vs.		
Abram Wylie,		
		Defendant.

L. A. Bickford and C. S. Fassett, the plaintiffs above named, partners, doing business under the firm name and style of "L. A. Bickford & Co.," in this action complain of Abram Wylie, a resident of Ormsby County, State of Nevada, and for cause of action allege:

That on divers days and times between the twentieth day of December, 1878, and the bringing of this action, these plaintiffs, at the City of Virginia, in the County of Storey and State aforesaid, bargained, sold and delivered to the said defendant, divers goods, wares and merchandise, to wit: certain spring and other mattresses, beds, bedding, blankets, comforters, pillows, chairs, tables, commodes, bedsteads and other furniture, of the full value of one thousand one hundred and forty-one dollars, in gold coin, at the special instance and request of said defendant;

That said defendant then and there, in consideration of the sale and delivery of said goods, wares and merchandise, as above stated, undertook and promised to pay to these plaintiffs, in gold coin, whatsoever the said chattels and merchandise were worth, whenever requested so to do; that the same were then and there reasonably worth the said sum of one thousand one hundred and forty-one dollars in gold coin; that plaintiffs have often requested defendant to pay the said sum of money, but to pay the same, or any part thereof, except the sum of one hundred and forty-one dollars, on the second day of January, A. D. 1879, the said defendant has hitherto wholly neglected and failed, and still does neglect and fail, to the damage of plaintiffs in the sum of one thousand dollars, with interest thereon, at the rate of ten per cent. per annum, from the second day of January, 1879, until the same shall be paid.

Wherefore, plaintiffs demand judgment against said defendant for the sum of one thousand dollars, with interest thereon at the rate of ten per cent. per annum, from the second day of January, A. D. 1879, until judgment, in gold coin, and

that such judgment bear interest according to law, in like gold coin.

R. H. F——,
Attorney for Plaintiff.

The complaint should be verified.

**Form 83.—Complaint and Prayer for an Injunction
Restraining Trespass.**

In the Superior Court of the State of California, in and for the
County of Los Angeles.

Godfrey Lesieur and J. P. Foster,	} Plaintiffs,
vs.	
William Gobble,	
Defendant.	}

Godfrey Lesieur and J. P. Foster complain, in this action of William Gobble, and for cause of action aver:

That heretofore, to wit, in the County of Los Angeles and State of California, the plaintiffs were and now are the owners and in the possession, for purposes of meadow, agriculture and grazing, of certain lands, situated in said county, consisting of three hundred and eighteen acres, undivided, situate and located near the town of Anaheim, in said county, and being bounded and described as follows, to wit: "Beginning at a stake on the east side of Santa Ana River, in said Los Angeles County, whence the 'German Gasthaus' bears south thirty and a half west, about one half mile distant, and the "stone milk-house" bears north thirty-five and a half east, six chains distant, and running thence north twelve degrees thirty minutes east eighty chains to a stake in the meadows one chain east of the road; thence north seventy-two degrees west forty chains to a stake on the brush flat; thence south twelve degrees thirty minutes west eighty chains to a stake on the said flat three chains west from the road; thence south seventy-two degrees east forty chains to the place of beginning; and being the owners of said lands, and heretofore in the quiet and peaceable possession of the same, plaintiffs aver that they now are entitled to the immediate, sole and exclusive possession of the same and to every part and parcel thereof, and that plaintiffs and those persons from whom they deraign title thereto have been the owners and in the quiet and peaceable possession continuously since long prior to the year A. D. 1850; and until on

or about the nineteenth day of August, A. D. 1879, when the defendant herein, well knowing the premises and the rights of plaintiffs in said lands, wrongfully and unlawfully, and with force and arms, entered upon said tract of land at and upon the northerly portion thereof, and wrongfully and unlawfully ousted these plaintiffs therefrom.

And plaintiffs aver that, being the owners of said land as aforesaid, they are entitled to all the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining; that they are the owners of the grass now growing and that may grow thereon, and also of the corral, buildings and fences thereon, and that they are entitled to enter upon said lands, and upon every part and parcel thereof, to erect buildings and fences thereon, and also to clear said lands and to cultivate the same.

And plaintiffs aver that they have paid and expended for and upon said lands, to wit: for the purchase and improvement thereof the sum of fifteen thousand dollars.

Plaintiffs further aver, that while defendants thus wrongfully entered upon said lands and trespassed thereon, to wit: on or about the nineteenth day of August, 1879, he thereafter did continuously, from day to day, and now does trespass thereon, and that he did dig up the surface of said lands and subvert the soil and earth thereof, to wit: in the meadow and pasture lands of plaintiffs therein, and did then and there claim and allege that he had "jumped" said land, to wit: one hundred and sixty acres thereof, and he did then and there and now does, vex and disturb these plaintiffs in the possession of said lands, and with force and arms, to wit: with a pistol commonly called a "Remington revolver," and with a gun commonly called a "Winchester rifle," prevent these plaintiffs from fencing their said land, and from clearing brush from and cultivating the same; and that he did then and there and now does threaten with force and arms to continue to vex and disturb plaintiffs in the possession of said land, and that he would and will with force and arms prevent plaintiffs from occupying their said lands, and will himself hold and occupy the same for his own use and benefit, and many other wrongs to plaintiffs and their said lands has said defendant committed, and does he now commit and threaten to commit, to the great damage of these plaintiffs.

And plaintiffs aver that they believe that said defendant will continue to trespass upon plaintiff's said lands, and to vex and disturb plaintiffs in the possession thereof as hereinbefore

stated he has done, and is now doing and threatens to do, unless he be enjoined and restrained from so doing by a writ of injunction.

And plaintiffs aver that they are informed and believe, and so charge the fact to be, that said defendant is insolvent, and that he has no property, exempt from execution, which would satisfy any judgment that plaintiffs might obtain against him on the matters herein set forth, and that if said defendant, each and all of his agents, servants and employees are not restrained and enjoined from molesting and disturbing plaintiffs in the possession of their said lands, plaintiffs will suffer great and irreparable injury.

Wherefore plaintiffs pray the restraining order of injunction of this Honorable Court, enjoining and restraining the said defendant, his agents, servants and employees, and all persons acting under him and by his authority, from trespassing upon, working, digging, fencing, setting posts, or, in any manner vexing, molesting, or disturbing the possession of these plaintiffs in said lands herein described, to wit: Beginning at a stake, etc.,

[Insert a copy here of the lands described in the body of the complaint.]

and particularly from the northerly portion of said lands, until this cause can be heard upon its merits, and that upon the final hearing of the same, such injunction may be made perpetual.

And plaintiffs further pray the judgment of the Court that they do have and recover the possession of said lands and their damages and costs of suit herein expended, with such other and general relief as to the Court may seem meet and proper in equity.

A. G. H. ———.

Attorney for Plaintiffs.

The complaint should be verified. As in the practice of the author, two cases exactly parallel to the above supposed case, the order of the Court in such a case will here be presented, from the fact that such order is dependent upon the complaint. The title of the order should be the same as the title of the complaint.

Form 34.—Order for Injunction.

[BANCROFT'S BLANK, No. 561.]

State of California, }
County of Los Angeles, } ss.

Upon reading the foregoing verified complaint in which God-

frey Lesieur and J. P. Foster are plaintiffs and William Goble is defendant, it appearing to my satisfaction therefrom that the plaintiffs are entitled to a writ of injunction against said defendant:

Now therefore, it is ordered, adjudged, and decreed, that a writ of injunction be, and the same is, hereby granted until otherwise ordered; and that plaintiffs execute to the defendant, with two good and sufficient sureties, an undertaking in the sum of one thousand dollars, made payable and conditioned according to law. And it is further ordered that, upon filing said bond, duly approved, the Clerk of said Superior Court issue said writ in conformity with the prayer set forth in said bill of complaint.

Done at Chambers in the city of Los Angeles, this seventh day of January, 1880.

A——— B———,
Judge of said Superior Court.

**Form 85.—Complaint for Trespass on a Mining Claim
with Prayer for an Injunction.**

**In the District Court of the Sixth Judicial District of the State
of Nevada, in and for the county of Eureka.**

**Moseley R. Lyon, Wm. Wermuth,
Tom Robison, and J. Landon
Smith,** Plaintiffs

VA.

Peter Howlke, James Burke, Patrick Lanigan, and Tim O'Malley,
Defendants.

The above-named plaintiffs, Wm. Wermuth, T. Robison and J. Landon Smith, complain of Peter Howlne, James Burke and Patrick Lanigan, defendants, and for cause of action allege: That on the first day of July, A. D. 1879, the plaintiffs were and ever since have been and now are, the owners and entitled to the sole and exclusive possession of that certain close, mining claim, vein and lode of gold and silver and other mineral bearing quartz lying and being in what is known as "Ruby Hill," in Eureka Mining District, in Eureka county, State of Nevada, being known as the "Mountain Queen Mining Claim and Lode," and being more particularly bounded and described as follows, to wit: Beginning at a monument of stone around a stake on said lode, on the northerly line of the "Jackson

Claim," and running thence easterly along said northerly line of said Jackson claim and at a right-angle with the general direction of said lode three hundred feet to a monument of stone and a stake; thence at a right-angle northerly and parallel with the general direction of said lode fifteen hundred feet to a monument of stone and a stake; thence at a right-angle westerly, crossing said lode, six hundred feet to a monument of stone and a stake; thence at a right-angle southerly fifteen hundred feet to a monument of stone and a stake, and thence at a right-angle easterly and along the line of said Jackson claim three hundred feet to the place of beginning, together with all the dips, spurs, angles and variations of said lode.

That while plaintiffs were so possessed and entitled to the possession of said close, land and mining claim, to wit: on said first day of July, 1879, and on divers other days and times between that day and the filing of this complaint, the said defendants did, wrongfully and unlawfully, and with force and arms, break and enter plaintiffs' said close and mining claim, and did then and there, and at divers other times, with force and arms, to wit: with shovels, bars, picks and other instruments, and with divers vehicles, dig up, turn, subvert and carry away therefrom large quantities, to wit: twenty thousand tons of earth and soil, and gold and silver, and other mineral-bearing quartz and rock of plaintiffs, out of plaintiffs' said mining claim, of great value, to wit: of the value of, and to plaintiffs' damage in, the sum of two hundred thousand dollars in gold coin. And plaintiffs further aver that said defendants did then and there, to wit: at the divers times and place above stated, commit divers other trespasses and wrongs, in and upon plaintiffs' said close and mining claim, and did then and there wrongfully and with force and arms dig, cut, excavate and make divers long tunnels, to wit: tunnels of the aggregate length of about three hundred and seventy feet, and divers drifts of great length, to wit: of the length of about three hundred feet, in and upon plaintiffs' said mining claim, and did then and there breast and take from and out of said tunnels and drifts, to wit: out of plaintiffs' said mining claim, and carry away therefrom and convert to their, said defendants', own use, divers other large quantities of gold and silver, and other mineral-bearing quartz, rock and earth of great value, to wit: of the value of two hundred thousand dollars, and to plaintiffs' further damage in the sum of two hundred thousand dollars; and plaintiffs further aver that said defendants are now committing, and that

they threaten still to commit such and like trespasses and wrongs, in and upon plaintiffs' said close and mining claim; and that plaintiffs are informed and believe, and upon their information and belief, they allege the fact to be, that said defendants are insolvent, and have not property exempt from execution sufficient to satisfy any judgment which plaintiffs may obtain against them; and defendants further aver that, unless said defendants, their agents, servants and employees, and all persons working under them, and by their authority, are enjoined and restrained from committing said wrongs, by the restraining order of injunction of this Court, plaintiffs will suffer great and irreparable injury from their trespasses and wrongs being committed and threatened, as above stated, by said defendants.

Wherefore plaintiffs pray for judgment against said defendants for the sum of four hundred thousand dollars in gold coin; and for the restraining order of this Honorable Court, enjoining and restraining the said defendants, and each of them, their agents, servants and employees, and all persons claiming or acting under them, or either of them, or by or under their, or either of their, authority, from and in any manner trespassing upon, working, drifting, or excavating in or upon said "Mountain Queen Mining Claim and Lode," above bounded and described, and from carrying away therefrom any gold or silver or other mineral bearing quartz, rock, or earth; until the matters and things herein, and this action at law can be heard and determined, and that upon the final hearing and determination hereof said injunction may be made perpetual; and plaintiffs pray for such other and further relief in the premises as in equity and good conscience may seem meet and proper to the Court.

A. H. G———,
Attorney for Plaintiffs.

The complaint should be verified, and the order for injunction should be drawn for presentation to the Judge or Court.

The foregoing complaint, though on a supposed cause of action, will show to prospectors, miners and others interested in mines, the necessity of giving perfect descriptions of their mining claims by stating the metes and bounds of their mining claims in their original *notices of location*.

Form 36.—Complaint for Forcible Entry.

In the Justice's Court of — township, of the State of —,
in and for the County of —.

_____	}	Plaintiff.
va.		
_____		Defendant.

—, the plaintiff in this action, complains of —, the defendant above named, a resident of said county of —, and for cause of action alleges:

That at the time hereinafter named, plaintiff was and, long prior thereto, had been in the quiet and peaceable possession, and now is entitled to the possession of that certain lot, piece and parcel of land situate in —, in the county aforesaid, bounded and described as follows, to wit:

[Here insert a correct description of the premises.]

together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining: That being so in the quiet and peaceable possession of said premises, and entitled to the possession thereof, the said defendant, on the — day of —, A. D. 18—, with great force and violence, and with a multitude of people, wrongfully and unlawfully entered into and upon said premises, above described, and with force and violence ejected, removed, and expelled plaintiff therefrom, and took possession thereof, and has ever since said time, wrongfully, forcibly, and unlawfully detained the same from the possession of plaintiff, to plaintiff's damage in the sum of — dollars.

Plaintiff further alleges that the monthly value of the rents and profits of said premises is — dollars, and that the value thereof from the time above named until the bringing of this action is — dollars [in Nevada three times the actual damage] in which sum plaintiff has been damaged by said wrongful acts of said defendant.

Wherefore plaintiff prays judgment against said defendant for the sum of — dollars damages, for the forcible and illegal detention of said premises by defendant, and further judgment for the restitution of said premises to plaintiff, and for such other and further relief as in law and equity may seem right and proper to the Court.

A. — B. —,
Attorney for Plaintiff.

The complaint should be verified.

Form 361.—Complaint on Foreclosure of Mechanic's Lien.

[BANCROFT'S BLANK, No. 524.]

In the Superior Court of the State of California, in and for the County of Mono.

Geo. H. Winterburn and Wm. Irwin,
partners doing business under the
firm name and style of Winter-
burn & Co.,

Plaintiffs,

vs.

James Cresswell,

Defendant.

The above-named plaintiffs complain against the above-named defendant, and, for cause of action, allege and show to the Court:

First. That heretofore, to wit: on the twenty-fifth day of September, A. D. 1879, at Bodie, County of Mono, and State of California, said plaintiffs were employed by said defendant to furnish all the labor and materials necessary and requisite for the construction and completion of that certain building or structure situate upon that certain parcel of land being in the said town of Bodie, County of Mono, and State of California, and described as follows, to wit:

[Here insert a correct description of the lot or land on which the building was erected or the work was done.]

Second. That said land was, at the time of commencing work on said building or structure, to wit: on the said twenty-fifth day of September, A. D. 1879, and until the time of the notice of the lien hereinafter mentioned, owned by said defendant, James Cresswell, and that said building was completed on the first day of December, 1879.

Third. That said labor performed and materials used in and upon the construction of said building, as aforesaid, were and are of the value of three thousand and five hundred dollars in United States gold coin, and that, according to said agreement, the said sum of three thousand and five hundred dollars became due and payable on the first day of December, A. D. 1879, from said defendant, James Cresswell, to said plaintiffs, but that the same has not been paid, or any part thereof, except the sum of seven hundred and fifty dollars on account thereof. And it was also understood and agreed by and between said plaintiffs and the said defendant that the said sum should be paid in United States gold coin, and that the same is so payable.

Fourth. That on a certain day, to wit: the fifth day of De-

ember, A. D. 1879, said plaintiffs, Winterburn & Co., as a lien against said premises, duly filed and recorded with the County Recorder of the County of Mono, being the county in which such property is situate, their claim, duly verified by the oath of G. H. Winterburn, one of these plaintiffs, containing a statement of their demand after deducting all just credits and offsets, with the name of the owner of said land, and also the name of the person by whom they were employed to erect said building, with a statement of the terms, time given, and conditions of the contract, and also a description of the property sought to be charged with the lien, sufficient for identification, a copy of which lien, marked "Exhibit A," is attached hereto and made a part of this complaint. That plaintiffs are informed that John Jones and Peter Smith have or claim some interest in said premises; that the same is subsequent to plaintiffs'.

That plaintiffs have paid eleven dollars and fifty cents as a necessary charge and expense in preferring and recording said lien, viz: five dollars for recording and six dollars and fifty cents for preferring the same, all of which is now due to plaintiffs from said defendant, in addition to the said sum of two thousand and seven hundred dollars, together with interest from said first day of December, A. D. 1879. That the sum of one hundred and fifty dollars is a reasonable sum for attorney's fee in prosecuting this suit in the Superior Court.

First. Wherefore plaintiffs pray judgment for the sum of two thousand seven hundred and sixty-one dollars and fifty cents against said defendant, James Cresswell, and that the same be adjudged a lien against the lot of land above described.

Second. That said premises, buildings, and appurtenances above described [to the extent of the interest of said defendant, James Cresswell, therein], be adjudged and decreed to be sold by the sheriff of said Mono County, according to law and the practice of this Court, and that the proceeds of such sale be applied to the payment of the costs of these proceedings and sale [and reasonable attorney's fee in the sum of one hundred and fifty dollars], and said plaintiffs' claim, amounting to said sum of two thousand seven hundred and sixty-one dollars and fifty cents, and interest, and also for the claim of any other lienholder, if any such there be on said property, who shall come in and be duly made parties to this action.

Third. That plaintiffs be allowed [a reasonable sum for attorney's fee by said Court and] costs in preferring and recording said lien.

Fourth. That plaintiffs or any other parties to this suit may become purchasers at such sale.

Fifth. That said plaintiffs may have such other and further order and relief in the premises as the case may require and as to the Court may seem just.

R. D. FERGUSON,
Attorney for Plaintiffs.

State of California, }
County of Mono, } ss.

George H. Winterburn, being duly sworn, says that he is one of the plaintiffs in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to matters which are therein stated on information and belief, and, as to those matters, that he believes it to be true.

GEORGE H. WINTERBURN.

Subscribed and sworn to before me this seven-
teenth day of January, A. D. 1880.

THOS. NEWMAN,
Justice of the Peace.

In California, under the new Constitution, Justice's Courts may have jurisdiction of the foreclosure of *liens on personal property* when *neither* the amount of the liens *nor* the value of the property amounts to three hundred dollars. Of course those Courts could not foreclose a lien on any real estate.

Form 36½.—Complaint for Holding Over after Rent Due and Unpaid.

[BANCROFT'S BLANK, No. 261.]

In the Superior Court of the State of California in and for the
County of Sacramento.

Lauren Upson, }
Plaintiff, }
vs. }
T. J. Sneath, }
Defendant. }

Lauren Upson, the plaintiff in the above-entitled action, complaining of T. J. Sneath, a resident of the County of Sacramento, State of California, the defendant in said action, alleges, for cause of complaint,

First. That on or about the first day of December, 1878, the

said plaintiff, by an oral agreement and lease, made on or about the said day, at the said County of Sacramento, leased, demised and let to the said defendant, T. J. Sneath, the premises situate, lying and being in the said County of Sacramento and described as follows, to wit:

[Here describe the premises leased.]

To have and to hold the said premises to the defendant for one month, and from month to month thereafter, at the monthly rent of fifty dollars, payable monthly on the first day of each and every month thereafter in advance, in gold coin of the United States.

Second. That by virtue of said agreement and lease, so made as aforesaid, the said defendant went into the possession and occupation of said demised premises, and still continues to hold the same as tenant of said plaintiff as aforesaid.

Third. That pursuant to the terms of said agreement and lease there became and was due on the first day of January, 1880, from said defendant the sum of one hundred dollars to said plaintiff for the rent of said premises for two months, to wit: from the first day of December, 1879, to the first day of January, 1880, the sum of fifty dollars in gold coin of the United States, and one month's rent in advance from said first day of January to the first day of February, A. D. 1880,

[Insert the amount due until suit is brought.]

amounting to the said sum of one hundred dollars.

Fourth. That on a certain day, to wit: the fifth day of January, A. D. 1880, at said county, demand in writing was duly made by said plaintiff of said defendant, for and requiring the payment of said rent then due, amounting to the said sum of one hundred dollars, or the possession of said demised property, but said defendant neglected and refused for the space of three days and more, after demand so made as aforesaid, and still neglects and refuses to pay said rent or surrender possession thereof.

Fifth. That said defendant still wrongfully and unlawfully holds over and continues in the possession of said premises after default in the payment of the rent, pursuant to the lease and agreement under which said property is held, and without the permission of the plaintiff; by reason whereof the plaintiff has already sustained damages in the sum of ——— dollars, gold coin of the United States, for the rent of said premises actually accrued from the first day of December, 1879, to the time of the commencement of this suit. And plaintiff avers

that he has been damaged by defendant's wrongful holding over of said premises in the further sum of two hundred dollars.

Wherefore, said plaintiff prays judgment against said defendant for the restitution and possession of said premises; and for the sum of three hundred dollars damages, the amount now due and unpaid for the rent thereof, and said further damages, and such further sum as may accrue from the time of filing this complaint to the rendition of judgment herein; [and that the amount found due for rent may be trebled and made payable in gold coin of the United States,] and also for the costs of this suit, and that by said judgment it be declared that said lease or agreement under which said defendant holds be forfeited, and that a writ of restitution and possession issue forthwith.

JOHN JONES,

Attorney for Plaintiff.

The complaint should be verified.

Form 36 $\frac{1}{2}$.—Complaint for Holding Over After Expiration of Term.

[BANCROFT'S BLANK, No. 262.]

In the Superior Court of the State of California, in and for the County of Monterey.

John Doe,	}
Plaintiff,	
vs.	
Richard Roe,	}
Defendant.	

John Doe, of the County of Monterey, State of California, the plaintiff in the above-entitled action, complaining of Richard Roe, of the said County of Monterey, the defendant in said action, alleges for cause of action:

That on or about the first day of December, A. D. 1878, the said plaintiff, by a written lease made on or about the said day, at the said County of Monterey, leased, demised and let to the said defendant, Richard Roe, of the said county, the premises situate, lying and being in the said County of Monterey, State of California, and described as follows, to wit:

[Here describe the premises leased, whether a town lot or other realty.]
to have and to hold the said premises to the said defendant, for the term of one year, from the first day of December, A. D. 1878, at the yearly rent of six hundred dollars, payable in equal

monthly installments on the first day of each month thereafter, in advance; that by virtue of said lease said defendant went into possession of said premises, and still continues to hold and occupy the same;

That the term for which said premises were demised as aforesaid has terminated, and that the said defendant holds over and continues in possession of the said demised premises, without the permission of the said plaintiff, and contrary to the terms of said lease;

That the said plaintiff, since the expiration of the term for which said premises were demised as aforesaid, to wit: on the fourth day of December, 1879, made demand in writing of the said defendant to deliver up and surrender to him the possession of said premises;

That more than three days have elapsed since the making of such demand, and the defendant has refused and neglected, for the space of three days after such demand, to quit the possession of said demised premises and still does refuse;

That the monthly value of the rents and profits of the said premises is the sum of one hundred and fifty dollars, in gold coin of the United States, to wit: three times the monthly rental heretofore paid therefor, and that plaintiff has been damaged by said defendant's unlawful holding of said premises in the sum of

[Insert three times the actual damages.]

Wherefore, the said plaintiff prays judgment for the restitution of the said premises, and for damages for the [rents and profits of said premises, and that such damages may be trebled as damages for the occupation and] unlawful detention and holding over of the same, amounting to the sum of one hundred and fifty dollars per month, besides costs of suit.

HIRAM JONES,

Attorney for Plaintiff.

The complaint should be verified.

CHAPTER VII.

GENERAL LEGAL AND BUSINESS FORMS.

Form 37.—Promissory Note not Negotiable, and without Interest until Due.

\$119.00.

Thirty days after date, I promise to pay to John Owen one hundred and nineteen dollars in gold coin, for value received.

JOHN DOE.

Virginia City, Nevada, Jan. 2, 1880.

Form 38.—Note Negotiable by Indorsement, without Interest until Due.

\$300.00.

Thirty days after date I promise to pay to John Doe, or order, the sum of three hundred dollars in gold coin, for value received.

JOHN OWEN.

Sacramento, Cal., Jan. 3, 1880.

Form 39.—Negotiable Note without Indorsement, without Interest, etc., until Due.

\$200.00.

Sixty days after date I promise to pay to John Doe, or bearer, the sum of two hundred dollars in gold coin, for value received.

JOHN OWEN.

Carson, Nevada, Jan. 3, 1880.

Form 40.—Note Bearing Interest after Maturity at Rate Agreed Upon.

\$200.00.

Sixty days after date I promise to pay to John Doe, or order, the sum of two hundred dollars in gold coin, with interest after maturity in like gold coin at the rate of three per cent. per month until the same shall be paid. For value received.

JOHN OWEN.

Nevada City, Cal., Dec. 23, 1879.

Form 41.—Note Bearing an Agreed Rate of Interest from Date.

\$300.00.

For value received, ninety days after date, I promise to pay to John Doe, or order, the sum of three hundred dollars in gold coin, with interest from date in like gold coin, at the rate of two per cent. per month until the same shall be paid.

JOHN OWEN.

Reno, Nevada, Jan. 2, 1880.

Form 42.—Note Payable at a Particular Place.

\$300.00.

For value received I promise to pay to John Doe, or order, the sum of three hundred dollars in United States gold coin, sixty days after the date hereof, at the Carson Savings Bank in Carson City, with interest on said sum in like gold coin at the rate of two per cent. per month from date until the same shall be paid.

JOHN OWEN.

Dayton, Nevada, Jan. 5, 1880.

Form 43.—Joint and Several Note.

\$300.00.

For value received, ninety days after date, we or either of us, jointly and severally promise to pay to John Doe, or order, the sum of three hundred dollars in gold coin, with interest in like gold coin at the rate of two per cent. per month from date until the same shall be paid.

JOHN OWEN.

JAMES MEEK.

Chico, Cal., Jan. 6, 1880.

Form 44.—Due-bill.

\$30.00.

Due John Doe, thirty dollars on demand, for value received.

JOHN OWEN.

Reno, Jan. 8, 1880.

Form 45.—Due-bill.

\$50.00.

Due John Doe, or bearer, fifty dollars, with interest, at one per cent. per month until paid, for value received.

JOHN OWEN.

Sutro, Nevada, Jan. 5, 1880.

Due-bills and promissory notes are practically the same things, differing only in formality.

Form 45.—Order for Money.

Bodie, Cal., Jan. 3, 1880.

Messrs. West & Bryant:

Please pay to John Jones, or order, fifty dollars on demand,
and charge to account of yours truly,

IRA JOY.

Form 46.—Order for a Suit of Clothes.

Carson City, Jan. 4, 1880.

H. S. Mason & Co.:

Please let Mr. George Tuffy have such broadcloth, beaver or
other material as he may select for a suit of clothes, not exceed-
ing one hundred dollars in value, and charge the same to the
account of yours truly,

BEN. SMALL.

Form 47.—Order for Cattle.

Winnemucca, Jan. 2, 1880.

Mr. Alex. Wise:

Please deliver to John Brown, or bearer, the cattle I pur-
chased of you last Saturday, and oblige, yours truly,

GEO. B. WALKER.

Form 48.—Receipts.

Tuscarora, Dec. 23, 1879.

Received of S. M. Beard fifty-two dollars in full of all de-
mands to date.

J. M. HOGLE.

Form 49.

Received of Len Wines twenty dollars on account.

O. L. C. FAIRCHILD.

Tuscarora, Dec. 23, 1879.

Form 50.—From One Person for Another's Account.

Elko, Dec. 24, 1879.

Received of Walter Chase, one hundred and fifty dollars, to
pay the account of Hon. John S. Mayhew against him.

MERRILL P. FREEMAN.

Form 51.—From One Person by Another.

Eureka, Nev., Dec. 20, 1879.

Received of Harvey Carpenter, through Hon. Thomas Wren, two hundred dollars in full of all demands against said Harvey Carpenter to date.

DAVID HALL.

Form 52.—From One Person to Another's Credit.

Ruby Hill, Nev., Dec. 23, 1879.

Received of Mosely R. Lyon three hundred dollars, to be credited on F. Robison's note for five hundred dollars, dated June 1, 1879, and due me one year from date.

WILLIAM WERMUTH.

Form 53.—Receipt in Full.

Received of J. Landon Smith, five hundred dollars in full of all demands for work done on his livery stable.

J. CROSSAN.

Eureka, Dec. 24, 1879.

You can obtain any desired printed blank forms of Bancroft's promissory notes or receipts of any stationer or book-seller.

PARTNERSHIP

Is the voluntary association of two or more persons for the purpose of carrying on a business together, and dividing its profits between them in certain proportions; and, as partnerships are quite common, a form of Articles of Partnership is given in

Form 54.—Agreement.

[BANCROFT'S BLANK, No. 46.]

This agreement, made the second day of January, A. D. 1880, between Harvey Boone and J. W. Wright, of the town of Bodie, County of Mono, and State of California, witnesseth: That the said parties have agreed to become copartners in the business of wholesale and retail grocery and provision and dry good merchants, and, by these presents, do agree to be copartners together under and by the firm name of "Harvey Boone & Co.," for the purpose of buying, selling, and vending all kinds of goods, wares and merchandise belonging to the said

business, and to occupy [the store in said town now occupied by them], which partnership shall commence [on the day of making these presents], and continue for the term of [five] years from this day; and, for that purpose, each of said parties puts into the concern, as his portion of the capital stock of said firm, [the sum of twenty-five thousand dollars], all of which it is agreed is to be used and employed in common between them, for the support and management of the said business, and for their mutual and equal benefit and advantage. And it is agreed by the parties to this instrument that, at all times during the continuance of their copartnership, they, and each of them, will give their attendance, and do their, and each of their, best endeavors, and, to the utmost of their skill and ability, exert themselves for their joint interest, profit, benefit, and advantage, and truly employ, buy and sell merchandise with their joint stock, and for the increase thereof, in the business aforesaid; and also that they shall and will, at all times during the said partnership, bear, pay, and discharge equally between them, all rents and other expenses that may be required for the support and management of the said business; and that all gains, profits, and increase that shall come, grow, or arise from, or by means of, their said business, shall be divided share and share alike between them, and that all losses that shall happen to their said joint business, by bad debts, poor commodities, or otherwise, shall be borne and paid by them share and share alike.

It is further agreed between the said parties that there shall be kept, at all times during the continuance of their copartnership, correct, just, and true books of account, wherein each of the said copartners shall enter and set down, or cause to be entered and set down, all money by them or either of them received, laid out, and expended in and about the said business, and also all goods, wares, merchandise, and commodities by them or either of them bought or sold by reason or on account of the said business, and all matters and things whatsoever to the said business and to the management thereof in any wise belonging, which said books shall be used in common between the said copartners, so that either of them may have access thereto at any time, without interruption or hindrance of the other.

It is also agreed by said copartners, that once in each year, that is to say, on [the first day of July in each and every year] and oftener, if necessary, the said copartners shall make, yield

and render, each to the other, a just, true and correct inventory and account of all profits and increase by them or either of them made, and of all losses by them or either of them sustained; and also of all payments, receipts, disbursements, and of all other things by them or either of them made, received, disbursed, acted, done or suffered in their said copartnership and business; and the same account, so made, shall and will, clear, adjust, pay and deliver each to the other, at that time, their just share of the profits made in their said business.

The said parties further mutually covenant and agree, to and with each other, that during the continuance of the said partnership, neither of them shall or will indorse any note, or otherwise become surety for any person or persons whomsoever, without the consent of the other of said copartners; and further, that at the end, or sooner determination of their copartnership, the said copartners shall and will, each to the other, make a true, just, correct and final account of all things relating to their said business, and in all matters truly adjust the same; and all and every the stock and stocks, and the gains and increase thereof which shall appear to be remaining either in money, goods, wares, fixtures, debts, or otherwise, shall be divided equally between them, share and share alike.

In witness whereof the said parties have hereunto set their hands [and seals] at Bodie aforesaid, the day and year first above written.

Signed, sealed and delivered in duplicate in the presence of J. A. Caldwell, S. B. Ferguson.

HARVEY BOONE. [SEAL.]
J. W. WRIGHT. [SEAL.]

Form 55.—Renewal of Partnership.

Whereas, the partnership formed between the undersigned in accordance with the within agreement will expire on the first day of January, 1885, it is hereby agreed that the said partnership shall be continued upon the same terms in every respect as mentioned within, for the further term of five years from the date above named.

Witness our hands hereto this ——— day of ——— A. D. ———.
H. BOONE.
J. W. WRIGHT.

By an excellent provision of the California Civil Code,

persons desirous of forming a special partnership must severally sign and acknowledge before some officer authorized to take acknowledgment of deeds, and file one in the office of the County Recorder of the county in which the principal business of the partnership is to be transacted, and a certified copy in the clerk's office of any other county in which such partnership has a place of business, a certificate stating: First, the name under which the partnership is to be conducted; second, the general nature of the business intended to be transacted; third, the names of all the partners and their residences, specifying which are general and which are special partners; fourth, the amount of capital which each special partner has contributed to the common stock; and fifth, the periods at which such partnership will begin and end; and if any false statement is made in any such certificate, all the persons interested in the partnership are liable as general partners for all the engagements of the partnership.

For the convenience of such partnership such certificate and acknowledgment are given in

Form 56.—Acknowledgment.

State of California, }
County of Mono, } ss.

We, the undersigned, do hereby certify that we are partners doing business under the name of the "Bodie Mountain Water Company;" that we intend to furnish pure water to the people of Bodie, in said county—pure water for drinking, culinary and other purposes; that the names of all the partners are Richard Brown, William A. Irwin, J. D. Page and John Wagner; [that the said J. D. Page and John Wagner are special partners, and have contributed ten thousand dollars each to the common stock;] that the residences of all of said partners are in said town of Bodie; that said partnership began on the second day of January, 1880, and is to continue for the term of twenty years.

In witness whereof we have hereunto set our hands, this second day of January, A. D. 1880.

Form 57.—Acknowledgment.

State of California, }
 County of Mono, } ss.

On this second day of January, A. D. 1880, before me, George McCartney, a notary public, in and for said county of Mono, duly commissioned and sworn, personally appeared Richard Brown, Wm. A. Irwin, J. D. Page and John Wagner, known to me to be the persons described in and who executed the foregoing [or the annexed] instrument, and they severally acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in Bodie, aforesaid, on the day and year in this certificate above written.

GEO. McCARTNEY,
 Notary Public.

[SEAL.]

AGREEMENTS

Are contracts mutually made between two or more persons concerning something already done, or to be done.

It is always better that agreements be reduced to writing (for writings never forget) and, in doing so, great care should be used in making the writing express in concise and exact terms the full agreement, or a perfect memorandum of it, for if, unfortunately, the contract should go into Court, the judge will construe it as the language of the agreement may seem to require, giving to the words used in it their usual meaning. With this suggestion a general form of an agreement will be presented in

Form 58.—Agreement, General Form.

[BANCROFT'S BLANK, No. 19.]

This agreement, made this first day of December, 1879, between J. C. Harlow, of the city of Virginia, County of Storey and State of Nevada, party of the first part, and John F. Moody, of the town of Truckee, County of Nevada and State of California, party of the second part, witnesseth, that the party of the first part, for and in consideration of the covenants hereinafter contained on the part of the party of the second part, does hereby covenant and agree to and with the said party of the second part, that

[Here insert the agreement of the party first named above, concisely but exactly.]

And the party of the second part, in consideration of said covenants on the part of the party of the first part, does covenant and agree with said party of the first part, that he, the party of the second part will

[Here insert the agreement of the party of the second part concisely and exactly.]

In witness whereof we have hereunto set our hands the day and year above written.

J. C. HARLOW.

J. F. MOODY.

Form 59.—For the Sale and Delivery of Personal Property.

This agreement witnesseth, that the undersigned, J. F. Calkin, of the county of Colusa, State of California, for and in consideration of the covenants and agreements hereinafter stated on the part of John Mitchell, of the city and county of San Francisco, State aforesaid, does hereby agree that he will deliver at the steamboat landing on the Sacramento river, in said town of Colusa, four hundred centals of wheat, of good and merchantable quality, to the said John Mitchell, on or before the first day of August, 1879; and the said John Mitchell, in consideration of the foregoing covenant of the said J. F. Calkin, does covenant and agree that he will receive the said wheat, at the place above named, at any time between the date of this agreement and the said first day of August, 1879, from the said Calkin, and will pay him therefor as soon as all of said wheat shall be delivered, at the rate of two dollars per cental for each cental of such wheat he may deliver as aforesaid, not exceeding said four hundred centals.

Witness our hands set to this agreement, in duplicate, this fifteenth day of June, A. D. 1879.

J. F. CALKIN.

JOHN MITCHELL.

Form 60.—Contract for Building.

[BANCROFT'S BLANK, No. 26.]

This agreement, made the first day of June, 1879, between A. B. Hamilton, of San Jose, Santa Clara County, State of California, party of the first part, and C. T. Ryland, of the same place, party of the second part, witnesseth, that the said party of the first part, for and in consideration of the covenants of

the party of the second part hereinafter contained, covenants and agrees to and with the party of the second part, to make, erect, build and finish, in a good, substantial and workmanlike manner, a two story brick dwelling-house, on that certain lot in San Jose, aforesaid, described as follows, to wit:

[Here describe the land on which the building is to be erected.]

agreeable to the draught, plan and specification hereto annexed and signed by the parties hereto, of good and substantial materials, by the first day of November next: and in consideration of the foregoing covenants of said party of the first part the party of the second part agrees to pay to the party of the first part the sum of four thousand dollars, in lawful money of the United States, for the said building, as follows, to wit: two thousand dollars when said building is inclosed and the roof thereof shall be put on, and the remaining two thousand dollars when said building shall be completed as above provided: and for the true and faithful performance of all and every of the agreements above mentioned the parties to this agreement do hereby further covenant and agree, each with the other, that the sum of fifteen hundred dollars shall be the estimated, fixed and settled damages to be paid by either party who shall fail faithfully to perform his covenants herein to the other party hereto.

In witness whereof the said parties have hereunto set their hands the day and year first above written.

A. B. HAMILTON.

C. T. RYLAND.

The distinction between sealed and unsealed private instruments is abolished in California.

Courts will construe agreements of all kinds according to the evident intention of the parties at the time of making the agreements.

Form 61.—Agreement to Sell Land.

This agreement, made the fifth day of January, A. D. 1880, between J. D. Baldwin, of the City and County of San Francisco, State of California, party of the first part, and A. M. Burton, of the City of Los Angeles, State aforesaid, the party of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of one hundred dollars, to him in hand paid, has agreed to sell and convey, by

good and valid deed, to the party of the second part, all that certain lot, piece, and parcel of land situate and being in San Diego County, in said State, bounded and described as follows, to wit: Beginning

[Here describe the land as completely as possible, so that it may be readily identified.]

together with, all and singular, the tenements, hereditaments, and appurtenances belonging and in any wise appertaining to said land, with the usual covenants of warranty in said deed, upon the following conditions, to wit:

That the said party of the second part, his heirs or assigns, shall pay to the party of the first part, his heirs or assigns, for the said land, the sum of four thousand dollars lawful money of the United States, in installments, as follows, to wit: The sum of one thousand dollars on the first day of June next, and the further sum of one thousand dollars on the third day of January, 1881, and the remaining two thousand dollars on or before the first day of June, A. D. 1881, together with legal interest on the said several sums from the date hereof until the same shall be paid.

The party of the first part further agrees that the party of the second part, his heirs or assigns, may forthwith, or at any time hereafter, enter upon and take possession of said land and cultivate the same until such payments become due as above stated, and that, upon the full payment of the said sum of four thousand dollars as above provided, by the party of the second part, his heirs or assigns, the party of the first part, his heirs, executors, administrators, or assigns, shall and will execute, in due form of law, and deliver to said party of the second part or his legal representatives herein, the said deed above mentioned.

And the said party of the second part, for himself, his heirs, executors, administrators, and assigns, doth covenant and agree to and with the said party of the first part, his heirs and assigns, that the said party of the second part will pay the said sums above named as they severally become due, and also the interest thereon, together with all taxes and assessments which may be levied and assessed against said land above described.

And it is further agreed by the party of the second part that if he make default in the payment of any of said installments at the time they shall become due as above provided, then this contract shall become forfeit and annulled, and the party of the first part, his heirs and assigns, shall be at liberty to enter

upon and take possession of said land, and to dispose of the same to any person, as if this contract had never been made.

In witness whereof, the said parties have hereunto set their hands the day and year first above written.

J. D. BALDWIN.

A. M. BURTON.

A contract like the foregoing should be acknowledged by the parties to it, and it should be recorded in the office of the County Recorder of the county in which the land is situated.

Form 62.—Agreement to Cultivate Land on Shares.

[BANCROFT'S BLANK, No. 30.]

This agreement witnesseth: That N. P. Chillson, of Woodland, Yolo County, Cal., covenants with John F. Curtis, of the same place, as follows, to wit: that the said Chillson will properly plow, harrow, fit and prepare for sowing, all that certain piece of land lying

[Here describe the land properly.]

and consisting of two hundred acres, more or less, belonging to said Curtis, and will sow the same in winter wheat, the seed necessary for which purpose is to be furnished by said Curtis, on or before the first day of January, A. D. 1880; and that he will at the proper time cut, thresh, harvest and clean the same, and deliver to the said Curtis at his warehouse, in Woodland aforesaid, the one third part of the said wheat within ten days after the same shall have been cleaned, and will carefully stack the straw on the said land, at such place thereon as the said Curtis shall require; and the said J. F. Curtis, in consideration of the agreement aforesaid, promises and agrees to and with the said Chillson, that he may enter in and upon the said land for the purpose of tilling and sowing the same and of harvesting the crop, and have and enjoy free ingress and egress for the purposes aforesaid; and that he, the said Curtis, will furnish to the said Chillson the seed-wheat, of good quality, necessary to sow the same on or before the first day of October next, and will also permit the said Chillson to thresh and clean the crop of wheat upon the land above described.

In witness whereof, the parties to this agreement have hereunto set their hands, at Woodland aforesaid, this first day of September, 1879.

N. P. CHILLSON.

JOHN F. CURTIS.

Executed in duplicate.

Form 63.—Agreement for Sale and Purchase of Vines and Fruit Trees.

This agreement between John B. True, of Suscol, in Napa County, California, and W. L. Upson, of Modesto, Stanislaus County, State aforesaid, witnesseth: That the said John B. True agrees to sell and deliver to the said W. L. Upson, at the town of Modesto aforesaid, during the month of February next, one thousand raisin grape vines, three hundred grafted apple trees, one hundred peach trees, fifty apricot trees, fifty nectarine trees, one hundred pear trees, fifty plum trees and one hundred almond trees, all in good order and condition, for transplanting in the month of March next, for the following prices, namely: for each one hundred grape vines, five dollars; for each hundred apple trees, twenty dollars; for each hundred peach trees, twelve dollars; for each fifty nectarine trees, twenty dollars; for each fifty apricot trees, fifteen dollars; for each one hundred pear trees, twenty-five dollars; for each fifty plum trees, fifteen dollars, and for each one hundred almond trees twenty-five dollars; and the said W. L. Upson, in consideration of the sale and delivery thereof, agrees to purchase the aforesaid trees in the quantities above named and at the prices aforesaid, and to pay the said John B. True the full price therefor, in gold coin, upon the delivery of said trees at Modesto aforesaid.

In witness whereof, the parties to this agreement have hereunto set their hands, this seventh day of December, A. D. 1879.

JOHN B. TRUE
W. L. UPSON.

Form 64.—Contract for Sinking a Shaft on a Mining Claim.

This agreement, made and entered into this third day of January, 1880, between John Oaks and James Hood, of Bodie, Mono County, State of California, parties of the first part, and Thos. Buckley, J. C. Turner, Wm. Irwin and Geo. H. Winterburn, of the same place, parties of the second part, witnesseth: That the parties of the first part, for and in consideration of the sum of one hundred dollars, to them in hand paid, and in further consideration of the covenants and agreements herein-after contained on the part of the parties of the second part, do hereby covenant and agree to and with the parties of the second part, to dig, excavate, construct and sink, in a good and

workmanlike manner, a vertical mining shaft, four feet in width and eight feet in length in the clear inside, and to a depth of three hundred feet from the surface of the ground, in and upon that certain mining claim known as and called the "Eclipse Mining Claim," located and being in Bodie Mining District, county of Mono, and State of California, commencing such shaft at such point on said mining claim as a majority of the parties of the second part shall determine, for and at the rate and pay of five dollars per foot for each and every foot of the first fifty feet of said shaft from the surface of said mining claim; seven and one half dollars per foot for each and every foot of the second fifty feet thereof; ten dollars per foot for each and every foot of the third fifty feet thereof; fifteen dollars per foot for each and every foot of the fourth fifty feet of such shaft, and twenty dollars per foot for each and every foot of the last one hundred feet thereof,

[If any drifting or other work is to be done from, in or about the shaft, insert such work agreed to be done, and the agreed price for the same, here.]

and to have the same complete and finished of the capacity and depth above stated, and in a good and workmanlike manner and condition, on or before the expiration of five months from the date of this contract.

In consideration of the foregoing agreements of the parties of the first part, and their performance of the same, the parties of the second part do hereby covenant and agree to pay to the said parties of the first part, for the sinking of said mining shaft as above provided, in gold coin, as follows, to wit: The sum of one hundred dollars upon the execution of this contract, and, when the first fifty feet of said shaft shall be completed, three fourths of the amount which shall then be due therefor; when the second fifty feet thereof shall be completed, three fourths of the sum which shall then be due therefor; when the third fifty feet thereof shall be completed, three fourths of the sum that shall then be due therefor; when the fourth fifty feet thereof shall be completed, three fourths of the sum that shall then be due therefor, and when the last one hundred feet, to wit: the whole of said shaft, as above provided, shall be completed according to the provisions above made, the parties of the second part agree to pay to the parties of the first part the whole of the balance then remaining due and unpaid, according to the rates per foot above stipulated, all in gold coin.

In witness whereof, the parties to this contract have hereunto

set their hands to said contract, in duplicate, at Bodie aforesaid, this second day of January, A. D. 1880.

JOHN OAKS,
JAMES HOOD,

Parties of the first part.

THOS. BUCKLEY,
JOHN C. TURNER,
WM. IRWIN,
GEO. H. WINTERBURN,

Parties of the second part.

Witnesses: A. C. RICHARDSON, JOHN A. CALDWELL.

The foregoing agreements are intended as outlines of contracts only, for each particular agreement must have its own parties, subject of contract, dates, etc., and must be drawn according to the terms agreed upon between the parties to such contract.

Form 65.—Particular Assignments.

For value received I hereby sell, assign, transfer and set over to Louis P. Wardle, all my right, title and interest in and to the within instrument.

THOS. GRACEY.

Virginia City, Nevada, Jan. 3, 1880.

Form 66.—General Assignment of a Mortgage.

[BANCROFT'S BLANK, No. 102.]

For and in consideration of the sum of one thousand dollars to me in hand paid by Louis Kramer, the receipt whereof is hereby acknowledged, I do hereby sell, assign, transfer and set over to the said Louis Kramer, the within indenture of mortgage together with the note to secure the payment of which said mortgage was given, and I do hereby authorize the said Kramer, his heirs, executors, administrators and assigns to collect and obtain payment of the same at his, or their own expense and cost; covenanting with the said Kramer and his assigns that there is now due and unpaid on said note and mortgage the sum of eleven hundred dollars in gold coin; that I am the owner thereof and have good right to sell the same. *

ROBERT H. TAYLOR.

City of Virginia, Storey County, Nevada, Jan. 2, 1880.

Form 67.—Of a Mortgage as Security.

For and in consideration of the sum of five hundred dollars to me in hand paid by Daniel H. Fraser, the receipt of which is hereby acknowledged, I, Ham Dyer, do hereby sell, assign, transfer and set over to the said D. H. Fraser [and as follows to the *above, after which, continue as follows:]

This assignment is upon the express condition that, if the said Ham Dyer, his heirs, executors, administrators or assigns, shall well and truly pay, or cause to be paid, to the said D. H. Fraser the sum of five hundred dollars in gold coin, on or before the first day of June, A. D. 1880, together with interest thereon at the rate of one per cent. per month from the date thereof, then this assignment shall be void; but otherwise it shall be and remain in full force and effect.

In witness whereof, we have hereunto set our hands and seals at Virginia City, Nevada, this third day of January, A. D. 1880.

D. H. FRASER,
HAM DYER.

Witnesses: J. C. CURRIE, JOHN K. BROWN.

Form 68.—Assignment for the Benefit of Creditors.

Know all men by these presents, that we, John Millson and Wm. Speer, doing business in the city of Virginia, county of Storey and State of Nevada, under the firm name of Wm. Speer & Co., for value received, do hereby grant, bargain, sell and convey to Dan Lyons, of the same place, all of the accounts, debts, dues, notes, bills, bonds and demands, goods, wares and merchandise, named and specified in the schedule marked "Schedule A," signed by our firm name and annexed hereto, to have and to hold the same, to him, the said Dan Lyons and to his assigns, in trust only, and to collect, sue for, demand, receive and recover, all such sums of money as may be due, owing and payable thereon; and selling said goods, wares, and merchandise at private or public sale, or both, as to him and our creditors may seem best; and, after paying all reasonable and proper costs, charges and expenses out of the proceeds thereof, to pay to each and all of our creditors the full sum that may be due and owing by us to them, of which creditors a complete list, together with the true amount of our indebtedness to them severally, is shown in the schedule signed by our firm name and marked "Schedule B," and annexed

hereto; and, if the proceeds of said notes, accounts, goods, wares, merchandise, etc., shall not be sufficient fully to pay all and every of our said creditors, then to pay them *pro rata* in proportion to the amount due and owing to each of them: but if the proceeds thereof shall be more than sufficient to satisfy and pay all our indebtedness to our said creditors, then the said Lyons is to pay and return to us the balance, if any should be left, after paying our creditors aforesaid.

And we do hereby nominate, constitute and appoint the said Dan. Lyons our true and lawful attorney, irrevocable by us or either of us, in the name of our said firm, and for every purpose connected therewith; to ask, demand, sue for, collect, receive, and recover, all and singular such sum or sums of money as now are, or may hereafter become due, upon, for, or on account of any of the property, effects, choses, or things in action, or demands above assigned; giving and granting unto our said attorney full power and authority to do and perform every act, deed and thing, requisite and necessary in the premises, as fully to all intents and purposes as we or either of us, might or could do, if this assignment had not been made; with full power of substitution and revocation, hereby ratifying and confirming all that our said attorney or his substitute may lawfully do or cause to be done in the premises by virtue hereof.

In witness whereof we have hereunto set our hands at Virginia City aforesaid this third day of January, A. D. 1880.

WM. SPEER & CO.,

Comprised of

JOHN MILLSON,

WM. SPEER.

Witnesses: M. BANNER, A. BLOOM.

Form 69.—Receipts.

Town or city and date.

Received of John Jones forty dollars, in full of all demands to date.

LOUIS P. WARDLE.

Received of _____ dollars, on account.

Date, etc. _____

Received of John Jones sixty dollars, payment in full for a bay horse, sold to James Thornton on October 7, 1879.

C. P. MASON.

Virginia, Nev., Dec. 31, 1879.

A receipt like the above is as good as a bill of sale of the personal property described.

Received of John Jones the sum of seventy dollars, in full and complete satisfaction of his indebtedness to me in the sum of one hundred and thirty dollars, and of all his indebtedness to me to date.

HORACE BLISS.

Tuscarora, Nevada, Jan. 2, 1880.

RECEIPT FOR AND ASSIGNMENT OF WAGES.

Received of Wm. Hoskins the sum of one hundred dollars, in full of my account against the Ophir Mining Company in the city of Virginia, Storey County, Nevada, for my labor for said Company and my wages due and to become due therefrom for and during the month of January, A. D. 1880, and I do hereby request the said Company to pay the amount which may be due me on the next pay-day of said Company, to wit, on February 3, 1880, for my labor during the present month to the said Wm. Hoskins, and charge the same to my account.

JAMES MARKHAM.

Virginia City, Nevada, Jan. 7, 1880.

The mining companies will not accept such an order, but it is good between the parties thereto, and the secretaries will generally take them on pay-day, and pay the amount, in coin, to the party from whom he received it. A receipt in the foregoing form is as good an assignment of wages due and to become due as a more formal instrument.

LIENS, MORTGAGES, DEEDS AND LEASES.

Form 70.—Miner's Lien [for Nevada.]

J. T. Greenhood,
vs. A Miner.
The ——— Gold and Silver
Mining Company,
A Corporation.

which mining claim is commonly known as and called the " ——— " mining claim, and is reputed to belong to the above-named ——— Gold and Silver Mining Company, a reputed corporation; and against so much of the land about the said mine and mining claim as may be necessary for the convenient use and occupation of said mine; and also against the appurtenances of and in anywise appertaining to said mine, under and by virtue of the provisions of an Act of the Legislature of the State of Nevada, entitled " An Act to Secure Liens to Mechanics and others and to Repeal all other Acts in relation thereto," approved March 2, A. D. 1875; to secure to me the payment of a balance due me, in gold coin, in the sum of one hundred and seventy dollars, after deducting all just and proper credits and offsets, for work and labor done and performed by me as a miner

and laborer, between the twenty-eighth day of January and the twenty-second day of March, A. D. 1879, in, about and upon the said

[Here insert the name of the mine.]

mine and mining claim, and in and upon the shaft, tunnel, drifts, breasts and cuts of said mine and mining claim, for and at the special instance and request of the said

[Here insert the name of the mining company.]

Gold and Silver Mining Company, to wit: for the owner of said mine and mining claim, by and through one

[Here insert the name of the superintendent, foreman, or the party who employed the claimant of the lien.]

who was then and there the superintendent [or foreman] and agent of said mining company, to wit: of the owner and owners of said mining claim;

That the following is a full, true and correct statement of my account against said mine for my said work and labor for the owners of said mining claim in and upon said mine and mining claim, as above stated, showing the amount justly due me therefor, over and above all just credits and legal offsets against the same, to wit:

The ——— Gold and Silver Mining Company,

To J. T. GREENHOOD,

Dr.

March 28, 1879. To fifty days' work and labor in, about and upon the ———

[Insert the name of the mine.]

between the twenty-eighth day of January, 1879, and this date, at the rate and wages of \$5 per day.....\$250.00

Cr

March 3, 1879, by cash..... 80.00

To balance remaining unpaid.....\$170.00

That thirty days [or sixty days when an original contractor] have not elapsed since the last of said work and labor was done and performed, as above stated, and that it is my intention to hold and claim a lien, as above stated, against the mine and mining claim above described and its appurtenances, and against so much land about the same, under and by virtue of the act above mentioned, as may be necessary for the convenient use and occupancy thereof [and if the act should be amended, and under the acts supplemental thereto and amendatory thereof] to secure to me the payment of said balance due me in the sum of one hundred and seventy dollars in gold coin, besides costs.

In witness whereof, I have hereunto set my hand at the City of Virginia, Nevada, this twentieth day of April, A. D. 1879.

J. T. GREENHOOD.

State of Nevada, }
County of Storey. } ss.

J. T. Greenhood, being first duly sworn, says that he is the claimant of the foregoing lien; that he has read [or has heard read] the same and understands the contents thereof, and that the same is true of his own knowledge.

J. T. GREENHOOD.

Subscribed and sworn to before me this
twentieth day of April, A. D. 1879.

ROBT. E. LOWERY,

Notary Public.

[SEAL]

The lien must be recorded as therein indicated, and must be foreclosed within six months after it is drawn, or it will become void.

Form 71.—Mechanics' Lien.

[BANCROFT'S BLANK, No. 1053.]

State of Nevada, }
County of Storey. } ss.

John Hampden, }
vs. Laborer. }
William Hanford, }
Owner. }

Notice is hereby given to all whom it may concern: That I, John Hampden, as a laborer, do hereby file my lien with the County Recorder of the County of Storey, State of Nevada, for record, and that it is my intention thereby to hold and claim a lien upon the superstructure and land hereinafter described, under and by virtue of an Act of the Legislature of the State of Nevada, entitled "An Act to Secure Liens to Mechanics and others, and to Repeal all other Acts in relation thereto," approved March 2, 1875, to secure to me the payment of a balance due me, in gold coin, in the sum of one hundred dollars [or whatever amount may be due the claimant], after deducting all just credits and offsets, for work and labor done and performed by me between the twenty-first day of April and the twenty-first day of May, A. D. 1879, in and upon that certain dwelling-house [or other building] located on

[Here describe the premises on which the building is situated.]

in the City of Virginia [or town of Gold Hill, or elsewhere in the county], in the County of Storey, and State of Nevada, for and at the special instance and request of said William Hanford, to wit: at the special instance and request of one John Jones, who was contractor for the erection of said superstructure and agent of and for said William Hanford, the reputed owner of said land and building at the time of the performance of said work and labor by claimant as above stated; that said William Hanford, by his said agent, then and there agreed to pay to this claimant wages at the rate of five dollars per day for each and every day claimant should work in and upon said superstructure; that claimant performed twenty-seven days' work and labor upon said building, aggregating the full sum and value of one hundred and thirty-five dollars in gold coin, whereof claimant has received the sum of thirty-five dollars only. That the following is a full, true, and correct statement of my account for said work and labor, showing the amount due me over and above all just credits and offsets against the same, to wit:

William Hanford to John Hampden,

Dr.

May 21, 1876, to twenty-seven days' work and labor done and performed by me between April 21, 1879, and this date, in and upon that certain building located on that certain lot of land

[Here describe the land.]

in Storey County, Nevada, at his special instance and request and at the rate and wages of \$5 per day..... \$135 00
Cr.

May 7, 1879, by cash..... : 35 00

Balance due..... \$100 00

That thirty days have not elapsed since the last of said work and labor was done and performed as above stated, and that it is my intention to hold and claim thereon a lien as above stated, and against so much land about the same as may be necessary for the convenient use and occupancy thereof, under and by virtue of the Act above named [and if the Act should be supplemented, or amended] [and under the Acts supplemental thereto and amendatory thereof] to secure the payment to me of the said balance due me in the sum of one hundred dollars in gold coin.

Witness my hand set hereto this twenty-first day of May,
A. D. 1879.

JOHN HAMPDEN.

The lien should be verified as to the bottom of Form 70.

Original contractors have sixty days from the time the last work was done in which to file their liens; but *all* sub-contractors must file their liens within thirty days after the last work was done by them on the superstructure.

Persons furnishing lumber, or other materials, must allege, in their liens, that such "materials were furnished for, and were used in and upon the building," or superstructure, against which the liens are filed.

Where the account is a long one it can be made out marked as an "Exhibit," and attached to the body of the lien; and when this is done it should be referred to in the body of the lien substantially as follows: [which account marked "Exhibit ——" is annexed hereto and made a part of this lien."] Such account then takes the place of an account in the body of the lien.

Under an Act of the Legislature of Nevada, approved February 28, 1879: "All persons who shall perform work or labor upon any tract or tracts of lands, by cutting or cording the wood or timber growing or being thereon, shall have, and may each respectively claim and hold, a lien upon the wood or timber so cut, or corded, for the amount in value of the work or labor so performed, *by retaining possession of the same, until the whole amount due for such work or labor shall have been paid*; PROVIDED, that any lien claimed and held, as aforesaid, shall be deemed to be waived, *unless an action be brought* in some Court of competent jurisdiction, for the recovery of the amount for which such lien is claimed as security, *within sixty days after such wood or timber shall have been taken into possession by the claimant*; and the fact that such lien is claimed shall be set out *in the complaint*, together with a description of and the number of cords of wood or feet of timber retained in the possession by the claimant."

Justices of the Peace have jurisdiction of such cases when the amount claimed does not exceed three hundred dollars.

Section 1183 of the Code of Civil Procedure of California provides that "Every person performing labor upon or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, flume, tunnel, fence, machinery,

railroad, wagon road, aqueduct to create hydraulic power, or other structure, or who performs labor in any mining claim, has a lien upon the same for the work or labor done or materials furnished by each respectively, *whether done or furnished at the instance of the owner of the building*, or other improvement, or *his agent*; and every contractor, sub-contractor, architect, builder or other person having charge of any mining or of the construction, alteration or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner for the purpose of this chapter."

By Section 1184 of the Code, "any person who, at the request of the owner of any lot, in any incorporated city or town, grades, fills in or otherwise improves the same, or the street in front of or adjoining the same, has a lien upon such lot for his work done and materials furnished" therefor.

Original contractors must file their liens within sixty days after the completion of the work, and every person except the original contractor must file his lien within thirty days after he performed his last work on, or furnished the last materials for, the structure, or after the completion of the alteration or repair thereof.

Liens begin to run from the time the first work was done on or the first materials were furnished for the structure, and such liens are preferred to any mortgage executed subsequent to the commencement of such work or the furnishing of any materials therefor. The California laws respecting mechanics' and other liens, and the Nevada laws on the same subject, are substantially alike, except that in California proceedings for foreclosure must be commenced within ninety days after the filing of the lien, unless a credit of time were agreed upon, while in Nevada such proceedings may be commenced at any time within six months after the filing of the lien. Whenever a lien is filed against two or more structures, it should carefully state the amount of work done and the "materials furnished for and used in and upon" each structure, and also the amount due on account of each of such structures for such work or materials.

With the foregoing explanation, the following additional forms of liens is here presented:

Form 72.—Contractor's Lien.

State of California, }
County of Sacramento. } ss.

M. D. Harlow, }
Contractor and }
Claimant. }
vs. }
Ira P. Bergen, }
Owner. }

Notice is hereby given to all whom it may concern that I, M. D. Harlow, as a contractor, do hereby file my lien with the County Recorder of the County of Sacramento, State of California, and that it is my intention thereby to claim and hold a lien upon the structure and land hereinafter described, under and by virtue of the laws and the provisions of the Code of Civil Procedure of the State of California for such cases made and provided, to secure to myself the payment of a balance due me in the sum of — dollars [in gold coin], after deducting all proper credits and offsets, for work and labor done and performed and for materials furnished by me and used in and upon that certain dwelling-house [or other building], located and being on lot number —, of block number —, of range —, of said City of Sacramento,

[Describe the lot, so that it may be readily identified.]

on divers days and times, between the — day of —, A. D. 188—, on which day I commenced said work and labor and to furnish said materials, and the — day of —, A. D. 188—, on which day I finished and completed the said structure and the furnishing of materials therefor, and which were used therein, and also finished my work and labor thereon, at the special instance and request of Ira P. Bergen, who then was the owner, to wit: the reputed owner of the land and premises above described, through one Edward F. Groves, who was then and there the agent of the said Ira P. Bergen, and was then and there in the possession and control of the said premises, and to whom, for the said Bergen, I furnished and delivered the said materials, all of which were furnished for and were used in and upon the said structure.

That a full, true and correct statement of my account for the said materials furnished by me and which were used in and upon said structure as above stated, together with a full, true, and correct statement of my work and labor, performed in and upon the said structure, as aforesaid, and also a true and correct statement of the amount due me from the said Bergen on ac-

count of said structure, after deducting all just credits and offsets against the same, is signed by me, marked "Exhibit A.," annexed hereto, and made a part of this lien; and that there is now due me, over and above all just credits and offsets, the sum of — dollars [in gold coin.]

That claimant performed said work and labor, and furnished said materials, as above stated, as an original contractor for the erection of said structure, upon a contract substantially as follows, to wit:

[Here set out the substance of the contract, that is, its terms, time given, if any, after the completion of the structure.]

That sixty days have not elapsed since the last of said work and labor was done and performed and since claimant furnished and delivered said materials, nor since the said structure was finished and completed; and that it is my intention to claim and hold a lien against said structure and also against so much of said land about the same as may be necessary for the convenient use and occupancy thereof, to secure to me the payment of said balance due me in the aforesaid sum of — dollars.

Witness my hand hereunto set this — day of —, A. D. 188—.

M. D. HARLOW.

State of California, }
County of Sacramento. } ss.

M. D. Harlow being first duly sworn says that he is the above-named claimant and the original contractor for the erection of the structure above named; that he has read the foregoing lien and that the same is true of his own knowledge.

M. D. HARLOW.

Subscribed and sworn to before me this

— day of —, A. D. 188—.

A. C. CONGER,

Justice of the Peace.

Form 73.—Contractor and Material-man's Lien.

State of California, }
County of Mono. } ss.

D. M. McMillan, Contractor and
Material-man, }
Claimant. }
vs. }
Mrs. T. Golden, }
Owner. }

Notice is hereby given to all whom it may concern: That I,

D. M. McMillan, of the town of Bodie, County of Mono, and State of California, as contractor and furnisher of labor and materials therefor, do hereby file my lien with the County Recorder of said Mono County, and declare that it is my intention thereby to hold, and I do claim, a lien upon the superstructure and land hereinafter described, under and by virtue of the statutes of the State of California, in such case made and provided, to secure to me the payment of a balance due me in the sum of two thousand five hundred and ninety-five dollars and fifty cents in gold coin, after deducting all just credits and offsets, for materials furnished by me for, and which were used in and upon, and for work and labor done and performed by me, in and upon that certain superstructure and building known as the "— House," located and being on that certain lot, piece, and parcel of land in said town of Bodie, County and State aforesaid, bounded and described as follows, to wit:

[Here give an exact description of the lot, so that it can be identified readily.]

which said materials were furnished and used as above stated, and which work and labor was done and performed by me as above stated, on divers days and times between the seventh day of September and the thirtieth day of October, A. D. 1879, for and at the special instance and request of Mrs. T. Golden, who was, at that time, the claimant and reputed owner of said land, and contracted, then and there, with this claimant for the erection of said superstructure thereon, and agreed to pay him therefor the sum of three thousand dollars in gold coin, according to the provisions of a contract made between this claimant and said Mrs. T. Golden on or about said seventh day of September, 1879, and to pay him the reasonable worth and value of any extra materials and work and labor, not provided for in said contract, which this claimant should furnish in and about said building;

That said Mrs. T. Golden agreed, then and there, to pay to this claimant and his assigns the said sum of three thousand dollars and said other sums, with interest thereon at the rate of two per cent. per month, all in gold coin, in certain installments, and to pay the full amount of said sums, principal and interest, within seven months from and after the said building should be completed;

That certain payments have been made by said Mrs. Golden for and on account of said building; that said building was completed on or about the thirtieth day of October, 1879;

That the following is a full, true, and correct statement of the account of claimant for said materials furnished and used, and for said work and labor done and performed, in and upon said building as above stated, showing the amount due claimant therefor, over and above all just credits and offsets, exclusive of interest thereon:

Bodie, Cal., November 10, 1879.

Mrs. T. Golden to D. M. McMillan,

Dr.

November 10, 1879, to materials furnished for, and used in and upon, and for work and labor done and performed in and upon that certain building in Bodie, California, known as the "— House," on Fuller Street, as per contract. . . . \$3,000 00
For extra material, as per contract. 457 10
For extra work, as per contract. 142 90

Total \$3,600 00

Cr.

September 9, 1879, by cash. \$250 50
" 11, 1879, " 50 00
October 7, 1879, " 300 00
" 13, 1879, " 100 00
November 7, 1879, " 254 00
" 10, 1879, " 50 00

Total of Credits. \$1,004 00

Balance due and unpaid. \$2,595 50

That sixty days have not elapsed since the last of said materials were furnished and used, and since the last of said work and labor was done and performed in and upon said building, as above stated, and that it is the intention of this claimant to hold a lien on said building and on so much of the land about the same as may be necessary for the convenient use and occupancy of the same, to secure the payment of said balance due to me thereon in the sum of two thousand five hundred and ninety-five dollars and fifty cents, together with interest thereon, at the rate of two per cent. per month, from the tenth day of November, 1879, until the same shall be paid, in gold coin.

Witness my hand hereto affixed, this eleventh day of November, A. D. 1879.

D. M. McMILLAN,

By GEORGE E. ROWE.

State of California, }
County of Mono. } ss.

George E. Rowe, being first duly sworn, says that he is book-

keeper for and agent of the above-named claimant, D. M. McMillan, and was such at the time the materials were furnished and used and the work and labor was done and performed which are described in the foregoing lien; that said McMillan is now absent from the State of California; that affiant has read the foregoing lien and understands the contents thereof, and that the same is true of his own knowledge; wherefore, he verifies the same.

G. E. ROWE

Subscribed and sworn to before me, this eleventh
day of November, A. D. 1879.

THOMAS NEWMAN,
Justice of the Peace, Bodie Township.

Form 74.—Actual Notice of Lien.

Bodie, Cal., November 12, 1879.

To Mrs. T. Golden, and all whom it may concern:

You will take notice that I have filed with the County Recorder of Mono County, California, and that it is my intention to hold and claim a lien against the building known as the "—— House," situated in the town of Bodie, county above named, upon the land hereinafter described, and against so much of the said land about said building as may be necessary for the convenient use and occupancy of the said building, to secure the payment to me of a balance due me in the sum of two thousand five hundred and ninety-five dollars and fifty cents, after deducting all just credits and offsets, for materials furnished by me for and which were used in and upon said structure, and for work and labor done and performed by me in and upon the said building, between the seventh day of September and the thirtieth day of October, A. D. 1879, at your special instance and request, and that my said lien was filed, as above stated, on the twelfth day of November, 1879. The following is a description of the land on which said building is situated and against which, with the said building, my said lien is filed, to wit:

[Here describe the land as it was described in the lien.]

Of all of which you will take due notice. Yours, respectfully,

D. M. McMILLAN.

By GEO. E. ROWE, his Agent.

AFFIDAVIT OF SERVICE.

State of California, }
 County of Mono. } ss.

George E. Rowe, being first duly sworn, says that he is a citizen of the United States and is more than twenty-one years of age; that he served the foregoing notice on the above-named Mrs. T. Golden, by delivering to her a true copy thereof, in writing, and showing this original to her, at her residence in Bodie, in said County of Mono, on the twelfth day of November, 1879.

GEO. E. ROWE.

Subscribed and sworn to before me, this twelfth
 day of November, A. D. 1879.

THOS. NEWMAN,

Justice of the Peace, Bodie Township.

The service of the foregoing is actual notice.

The foregoing forms of liens will serve as a guide to material-men furnishing materials, sub-contractors, journeymen and others performing labor on any structure in drawing their liens, but they should remember that the statute of the State must be complied with, and that the liens of all but original contractors must be filed *within thirty days* after the last work was done or the last of the materials were furnished for the structure.

Bancroft's blanks for liens are numbered as follows: Of contractor, 465; of sub-contractor, 466; of material-men, 467; of laborer, 469.

FORMS OF DEEDS, MORTGAGES, ETC.

A deed is a conveyance of real estate by one or more persons, or a corporation, to another one or more persons, or to a corporation; and the property conveyed by the deed should be described so as to be identified readily.

Form 75.—Quitclaim Deed.

[BANCROFT'S BLANK, No. 439.]

This indenture made — day of —, in the year of our Lord —, between — of —, in the county of —, and State of —, the party of the first part, and — of —, the party of

the second part witnesseth : That the party of the first part, for and in consideration of the sum of — dollars to —, in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, do—, by these presents, grant, bargain, sell, remise, release, convey, and forever quitclaim, unto the said party of the second part, and to — heirs and assigns, all the right, title, interest and claim of the part— of the first part of in and to that certain lot, piece and parcel of land situate and being in the city [or town] of—, county of —, and State of —, bounded and described as follows, to wit :

[Here give the correct boundaries of the land, or describe it so that it may be readily identified.]

Together with all and singular [all rights and claims of homestead therein, if a homestead] and the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the rents, issues and profits thereof; to have and to hold, all and singular, the said premises, together with the appurtenances, unto the said part— of the second part, — heirs and assigns forever.

In witness whereof, the said part— of the first part ha— hereunto set — hand— and seal— the day and year first above written.

Signed, sealed and delivered
in presence of —.

_____, [SEAL]
_____, [SEAL]

Form 76.—Acknowledgment.

State of _____,
County of _____. } ss.

On this — day of —, A. D. 188—, before me a — in and for said county [duly commissioned and sworn, if before a Notary Public, or other commissioned officer] appeared —, personally known to me to be the individual described in and who executed the foregoing [or annexed] instrument as — part— thereto, and —he— acknowledged to me that —he— executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand [and affixed my official seal] the day and year in this certificate first above written.

_____,
Notary Public.

Form 77.—Warranty Deed.

[BANCROFT'S BLANK, No. 472.]

This indenture, made the — day of — in the year of our Lord one thousand eight hundred and —, between —, of —, the part— of the first part, and —, of —, the part— of the second part, witnesseth, that the said part— of the first part, for and in consideration of the sum of — dollars and —, of the United States of America, to — in hand paid by the said part— of the second part, the receipt whereof is hereby acknowledged, do— by these presents, grant, bargain, sell, convey and confirm unto the said part— of the second part, and to — heirs and assigns forever, all that certain lot, piece and parcel of land, situate, lying and being in the — and county of —, and State of —, bounded and described as follows, to wit:

[Here insert a description of the land conveyed, giving it careful boundaries.]

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the rents, issues and profits thereof: To have and to hold, all and singular the above-mentioned and described premises, together with the appurtenances, unto the said part— of the second part, and to — heirs and assigns forever. And the said part— of the first part, and — heirs, the said premises in the quiet and peaceable possession of the said part— of the second part, — heirs and assigns, against the said part— of the first part, and — heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In witness whereof, the said part— of the first part hereunto set — hand— and seal— the day and year first above written.

_____, [SEAL.]

_____, [SEAL.]

Signed, sealed and delivered in the presence of

Form 78.—Deed of Trust.

[BANCROFT'S BLANK, No. 420.]

This deed of trust, made this — day of —, A. D. eighteen

hundred and eighty—, between —, of —, of the first part, and — and —, of —, part— of the second part, and —, of the third part, witnesseth:

Whereas, the said — [ha— borrowed and received of the said —, in gold coin of the United States, the sum of — dollars, and ha— agreed to pay the same on the — day of —, A. D. eighteen hundred and —, to the —, in like gold coin, with interest, according to the terms of a certain promissory note, of even date herewith, executed and delivered therefor by the said —].

Now this indenture witnesseth: That the said part— of the first part, in consideration of the aforesaid indebtedness to the — and of one dollar to — in hand paid by the part— of the second part, the receipt whereof is hereby acknowledged, and for the purpose of securing the payment of the said promissory note and of any sum or sums of money, with interest thereon, that may be paid or advanced by, or may otherwise be due to, the part— of the second or third part, under the provisions of this instrument, do— by these presents grant, bargain, sell, convey, and confirm unto the part— of the second part in joint tenancy, and to the survivor of them, their successors and assigns, the piece or parcel of land situate in the County of —, State of —, described as follows:

[Here insert a description of the property conveyed in trust.]

And also all the estate and interest, homestead, or other claim or demand, as well in law as in equity, which the said part— of the first part now ha— or may hereafter acquire of, in, and to said premises, with the appurtenances;

To have and to hold the same to the parties of the second part, as joint tenants (and not as tenants in common), with right of survivorship as such, and to their successors and assigns (said parties of the second part and their successors being hereby expressly authorized to convey, subject to the trusts herein expressed, the lands above described), upon the trusts and confidences hereinafter expressed, to wit:

First. During the continuance of these trusts the party of the third part and the parties of the second part, their successors and assigns, are hereby authorized to pay, without previous notice, all taxes, assessments, and liens now subsisting, or which may hereafter be imposed by national, state, county, city, or other authority, upon said premises, and on the money so borrowed as aforesaid, to whomsoever assessed, and all or any incumbrances now subsisting, or that may hereafter subsist

thereon, which may, in their judgment, affect said premises or these trusts, at such time as, in their judgment, they may deem best; or in their discretion, for the benefit and at the expense of said part— of the first part, to contest the payment of any such taxes, assessments, liens, or incumbrances, or defend any suit or proceeding instituted for the enforcement thereof, and, in like manner, to prosecute or defend any suit or proceeding that they may consider proper to protect the title to said premises; and these trusts shall be and continue as security to the party of the third part, and their assigns, for the repayment, in gold coin of the United States, of the moneys so borrowed by the — and the interest — thereon, and of all amounts so paid out, and costs and expenses incurred as aforesaid, whether paid by the part— of the second or third part, with interest on such payments at the rate of — per cent. per month, until final repayment.

Secondly. In case the said — shall well and truly pay or cause to be paid at maturity, in gold coin as aforesaid, all sums of money so borrowed as aforesaid, and the interest — thereon, and shall, upon demand, repay or deposit all other moneys secured or intended to be secured hereby, and also the reasonable expenses of this trust, then the parties of the second part, the survivor of them, their successors and assigns, shall reconvey all the estate in the premises aforesaid, to them by this instrument granted, unto —, — heirs and assigns, at — request and cost.

Thirdly. If default shall be made in the payment of any of said sums of principal or interest when due, in the manner stipulated in said promissory note, or in the reimbursement of any amounts herein provided to be paid, or of any interest thereon, then the said parties of the second part, or the survivor of them, their successors or assigns, on application of the party of the third part or their assigns, shall sell the above-granted premises, or such part thereof as, in their discretion, they shall find it necessary to sell in order to accomplish the objects of these trusts, in the following manner, namely:

They shall first publish the time and place of such sale, with a description of the property to be sold, at least — a week for — weeks, in some newspaper published in the —, County of —, and may, from time to time, postpone such sale by publication; and, on the day of sale so advertised or to which such sale may be postponed, they may sell the property so advertised, or any portion thereof, at public auction, in any

county where any part of said property may be situated, to the highest cash bidder; and the holder or holders of said promissory note, their agent or assigns, may bid and purchase at such sale.

And the part— of the second part, — or assigns, shall establish, as one of the conditions of such sale, that all bids and payments for said property shall be made in like gold coin as aforesaid, and upon such sale — shall make, execute, and, after due payment made, shall deliver to the purchaser or purchasers, his or her heirs and assigns, a deed or deeds of grant, bargain, and sale of the above-granted premises, and out of the proceeds thereof shall pay:

First. The expenses thereof, together with the reasonable expenses of this trust, including counsel fees of — dollars in gold coin, which shall become due upon any default made by the — in any of the payments aforesaid.

Second. All sums which may have been paid by the said — or the part— of the second part, — successors or assigns, or the holders of the note aforesaid, and not reimbursed, and which may then be due, whether paid on account of incumbrances or insurance, as aforesaid, or in the performance of any of the trusts herein created, and with whatever interest may have accrued thereon; next the amount due and unpaid on said promissory note, with whatever interest may have accrued thereon; and, lastly, the balance or surplus of such proceeds, if any, to said —, — heirs or assigns.

And, in the event of a sale of said premises or any part thereof, and the execution of a deed or deeds therefor, under these trusts, then the recitals therein of default and publication shall be conclusive proof of such default and of the due publication of such notice; and any such deed or deeds, with such recitals therein, shall be effectual and conclusive against the said part— of the first part, — heirs or assigns, and all other persons; and the receipt for the purchase-money contained in any deeds executed to the purchaser, as aforesaid, shall be a sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase-money, according to the trusts aforesaid.

In witness whereof, the said part— of the first part ha— hereunto set — hand— and seal— the day and year first above written.

_____ [SEAL.]

_____ [SEAL.]

Duly signed, sealed, and delivered in the presence of —.

Form 79.—Mining Deed.

[BANCROFT'S BLANK, No. 432.]

This indenture, made the — day of —, A. D. 188—, between — of —, County of — and State of —, party of the first part, and — of —, party of the second part, witnesseth: That the said part— of the first part, for and in consideration of the sum of — dollars, to — [him, her or them], in hand paid, the receipt whereof is hereby acknowledged, do, by these presents, grant, bargain, sell, remise, release and quitclaim unto the said part— of the second part and to — heirs and assigns forever, all the right, title, interest, estate, claim and demand, both in law and equity, both in possession and expectancy, of the said part— of the first part, of, in and to that certain land, claim, mine and mining right and property on that certain vein or lode of quartz, rock and earth, containing precious metals of gold and silver and other minerals, situated in [Union Mining District, Nye County, State of Nevada, and known as the Sheba mining claim], and described as follows, to wit:

[Here insert a careful and exact description of the property or portion of the property conveyed.]

together with all the dips, spurs and angles, and also all the metals, ores, gold and silver-bearing quartz, rock and earth therein, and all the rights, privileges and franchises thereto incident, appendant and appurtenant or therewith usually had and enjoyed; and also, all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, proceeds, issues and profits thereof; to have and to hold, all and singular, the said premises, together with the appurtenances unto the said part— of the second part, — heirs and assigns forever; and the part— of the first part do— covenant with the part— of the second part, that — ha— full right, power and authority to sell and convey the said premises, as above done, and that the same are now clear and free from all incumbrances whatever, made or suffered by the said part— of the first part.

In witness whereof, the said part— of the first part, ha— hereunto set — hand— and seal— the day and year first above written.

____ [SEAL]
 ____ [SEAL]

Signed, sealed and delivered in presence of

The instrument should be acknowledged. *All deeds and mortgages and other instruments affecting lands longer than one year should be regularly acknowledged and recorded.*

Form 80.—Mortgage.

[BANCROFT'S BLANK, No. 744.]

This indenture, made the fifteenth day of January, in the year of our Lord one thousand eight hundred and eighty, between John Soggs, of Nevada City, Nevada County, State of California, the party of the first part, and Wm. Crawford, of the same place, the party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of one thousand dollars, in gold coin of the United States of America, to him in hand paid, does grant, bargain, sell and convey unto the said party of the second part, and to his heirs and assigns forever, all that certain piece or parcel of land situate in the town of Nevada city, in said county of Nevada and State of California, and bounded and described as follows:

[Here insert a description of the property, so that it can be identified readily.]

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

This conveyance is intended as a mortgage to secure payment of

[If a note insert "Of a certain promissory note in the words and figures following, to wit," and copy the note exactly. If indebtedness based on any thing except a note, describe the indebtedness and when due.]

and these presents shall be void, if such payment be made (according to the tenor and effect thereof); but in case default be made in the payment of the principal or interest, as above provided, then the said party of the second part, his executors, administrators and assigns, are hereby empowered to sell the said premises with all and every of the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale, to retain the said principal and interest, together with the costs and charges of making such sale, and five per cent. for attorney's fees; and the overplus, if any there be, shall be paid by the party making such sale, on demand, to the said party of the first part, his heirs or assigns.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

JOHN SOGGS. [SEAL.]

Signed, sealed and delivered in the presence of

WM. HUGHES, JOHN ST. JOHN.

The mortgage should be acknowledged.

Form 81.—Mortgage.

[BANCROFT'S BLANK, No. 754.]

This indenture, made the — day of —, in the year of our Lord one thousand eight hundred and eighty —, between — of —, county of —, and State of —, and — of —, the part— of the second part, whereas, the said part— of the first part— justly indebted to the said part— of the second part, in the sum of — dollars, — of the United States of America, secured to be paid by —, certain promissory note—, bearing even date with these presents, and which said note is in the words and figures following, to wit:

[Here insert a verbatim copy of the note.]

Now this indenture witnesseth, that the said part— of the first part, for the better securing the payment of the said sum of money secured, to be paid by the said promissory note—, with interest thereon, according to the true intent and meaning thereof, and also for and in consideration of the sum of one dollar, to — in hand paid by the said part— of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, ha— granted, bargained, sold, conveyed and confirmed, and by these presents do— grant, bargain, sell, convey and confirm unto the said part— of the second part, and to — heirs and assigns forever, all

[Here insert a description of the property mortgaged.]

together, with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, [claim of homestead], property, possession, claim and demand whatsoever, as well in law as in equity, of the said part— of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenance.

To have and to hold the said premises with the appurtenances unto the said part— of the second part — his heirs and assigns forever.

Provided always, and these presents are upon this express condition, that if the said part— of the first part, — heirs, executors and administrators, shall well and truly pay or cause to be paid to the said part— of the second part, — executors, administrators or assigns, the said sum of money secured to be paid by the said promissory note—, and the interest thereon; at the times specified and in the manner mentioned in the said promissory note—, according to the true intent and meaning thereof, then, and in that case, these presents, and the estate hereby granted, shall cease, determine and be void. And the said part— of the first part, for — and — heirs, executors and administrators, do— hereby covenant, promise and agree to pay to the said part— of the second part, — executors, administrators or assigns, the said sum of money and interest as mentioned in said promissory note—, and secured to be paid as aforesaid. And if default shall be made in the payment of the said sum of money, or any part thereof, as provided in said note—, or if the interest that may grow due thereon, or any part thereof, shall be behind and unpaid for the space of — days after the same should have been paid, according to the terms of said promissory note—, then and from thenceforth it shall be optional with said part— of the second part, — executors, administrators and assigns, to consider the whole of said principal sum expressed in said note—, as immediately due and payable, although the time expressed in said note— for the payment thereof shall not have arrived, and immediately to enter into and upon all and singular the premises hereby granted or intended so to be, and to sell and dispose of the same, and all benefit and equity of redemption of the said part— of the first part—, heirs, executors, administrators or assigns, according to law; and out of the money arising from such sale to retain the principal and interest which shall then be due on the said promissory note—, together with the costs and charges of foreclosure suit, and also the sum of — dollars and a percentage, at the rate of — per cent. upon the amount of judgment recovered, or in case the said foreclosure suit is settled before judgment recovered; the amount due the plaintiff on said note—, and this mortgage, as counsel fees for foreclosing the same; and also the amounts of all such payments of taxes, assessments or incumbrances as may have been made by said

part— of the second part, — heirs, executors, administrators or assigns, by reason of the permission hereinafter given, with the interest on the same hereinafter allowed, rendering the over-plus of the purchase-money (if any there shall be) unto the said part— of the first part, — heirs, executors, administrators or assigns. And the said part— of the first part, do— hereby further covenant, promise and agree, to and with the said part— of the second part, to pay and discharge at maturity all such taxes or assessments, liens or other incumbrances now subsisting or hereafter to be laid or imposed upon said premises, or which may be in effect a prior charge thereupon, during the continuance hereof, and in default thereof, the said part— of the second part may pay and discharge the same, and may, at his option, keep fully insured against all risks by fire the buildings which are now, or may be hereafter erected thereon at the expense of the said part— of the first part, and the sums so paid shall be repayable in the same kind of money or currency in which the same may have been paid, and shall bear interest at the rate of — per cent. per —, and shall be considered as secured by these presents, and be a lien upon said premises, and shall be deducted from the proceeds of the sale thereof, above mentioned, with interest as herein provided.

In witness whereof, the part— of the first part ha— hereunto set — hand— and seal— the day and year first above written.

_____. [SEAL.]

_____. [SEAL.]

Signed, sealed and delivered in the presence of

_____.

The mortgage should be acknowledged and recorded.

Form 82.—Chattel Mortgage.

[BANCROFT'S BLANK, No. 226.]

This mortgage, made the — day of —, in the year eighteen hundred and —, by —, of —, County of —, and State of —, by occupation —, mortgagor—, to —, of the —, County of —, and State of —, by occupation —, mortgagee, witnesseth:

That said mortgagor— mortgage— to the said mortgagee— all that certain personal property situated and described as follows, to wit:

[Here insert a description of the property mortgaged.]

as security for the payment to —, the said mortgagee—, of — dollars in — of the United States of America, on the — day of —, in the year A. D. eighteen hundred and —, with interest thereon at the rate of — per cent. per —, according to the terms and conditions of a certain promissory note of even date herewith, and in the words and figures following, to wit:

[Here insert an exact copy of the note.]

It is also agreed that, if the mortgagor should fail to make any payment as in the said promissory note provided, then the mortgagee may take possession of said property, using all necessary force so to do, and may immediately proceed to sell the same in the manner provided by law, and from the proceeds pay the whole amount in said note specified.

____ [SEAL.]
____ [SEAL.]
____ [SEAL.]

Signed and executed in the presence of ____.

State of California, }
____ County of ____ } ss.

The mortgagor— in the foregoing mortgage named, and —, the mortgagee— in said mortgage named, being duly sworn, each for himself doth depose and say that the aforesaid mortgage is made in good faith and without any design to hinder, delay, or defraud any creditor or creditors.

Subscribed and sworn to this — day of —, A. D. 18—, at the —, County of —, before me, ____.

A chattel mortgage is of no value in the State of Nevada unless there be a delivery, and an actual and continued change of possession of the chattels mortgaged.

LEASES.

A landlord is one who lets property.

A tenant is the person who hires such property.

A lease is a contract whereby a person who has a right to the use of property conveys such use to another for a limited time at a certain rent, payable at periods specified.

In drawing a lease great care should be taken that all the conditions and liabilities on which the premises are granted and accepted are clearly specified.

Leases of real property running more than one year should be in writing, and recorded in the office of the County Recorder where the property is situated.

Form 83.—Lease.

[BANCROFT'S BLANK, No. 729.]

This indenture, made the fifth day of January, in the year of our Lord one thousand eight hundred and eighty, between David Hall, of the town of Eureka, in the County of Eureka, in the State of Nevada, party of the first part, and Harvey Carpenter, of the same place, the party of the second part, witnesseth: That the said party of the first part does, by these presents, lease and demise unto the said party of the second part all that certain lot, piece, and parcel of land,

[Here insert a description of the property leased.]

together with the appurtenances thereto belonging, for the term of one year, from the fifth day of January, one thousand eight hundred and eighty, at the monthly rent or sum of forty dollars, payable in gold coin of the United States of America, monthly in advance, on the fifth day of each and every month during said term.

And it is hereby agreed that, if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said party of the first part to re-enter the said premises and to remove all persons therefrom.

And the said party of the second part does hereby covenant, promise, and agree to pay the said party of the first part the said rent in the manner herein before specified, and not to let or underlet the whole or any part of the said premises without the written consent of the party of the first part:

And that, at the expiration of said term, the said party of the second part will quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit (damages by the elements excepted).

In witness whereof, the said parties have hereunto set their hands and seals the day and year first above written.

DAVID HALL [SEAL.]
HARVEY CARPENTER. [SEAL.]

Signed, sealed, and delivered in
the presence of

THOS. WREN,
WM. WERMUTH.

If the lease be drawn for a term longer than one year it should be acknowledged and recorded.

Form 84.—Agreement of Landlord to Tenant.

This agreement witnesseth that I, John Smith, of the City and County of San Francisco, State of California, have let and rented to John Jones, of the same place, my certain house and lot on — street, in said city and county, known and numbered as number —, on said — street, for the term of one year from this date, at the monthly rental of — dollars per month, payable monthly in advance, in gold coin. It is understood and agreed that said premises are not to be used or occupied for any business deemed extra hazardous on account of fire, and that the same shall not be underlet by the said Jones, without my written consent, under the penalty of forfeiture of this lease and the damages which I may sustain thereby, in a sum not less than — dollars.

Given under my hand, this — day of —, A. D. 188—.

JOHN SMITH.

Witnesses: PETER FOLTZ, JOHN KNOX.

Form 85.—Agreement of Tenant to Landlord.

This agreement witnesseth that I, John Jones, of the City and County of San Francisco and State of California, have hired and leased of John Smith, of the same place, his certain house and lot on — street, in said city and county, known and numbered as number —, on said — street, for the term of one year from this date, at the monthly rental of — dollars per month, payable monthly in advance, in gold coin; and I hereby promise and agree to make punctual payment of said rent in the manner and at the times above stated, and, at the expiration of said term, to quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit, damages by the elements excepted, and covenant not to let or underlet the whole or any part of the said premises without the written consent of my said landlord, under penalty of the forfeiture of my lease thereof, and all damages my said landlord may sustain thereby, which I agree shall be considered not less than — dollars.

Given under my hand this — day of —, A. D. 188— [the same date as the landlord's agreement].

JOHN JONES.

Witnesses: PETER FOLTZ, JOHN KNOX.

The object of this work is not to supply a form for every given case, but to supply the outlines of forms in all ordinary business.

Form 86.—Notice of Raising Rent on Property.

Virginia City, Nevada, Jan. 3, 1890.

Mr. Cyrus Jones:

SIR—You will please take notice that, at the expiration of the present month, the rent of my building on lot number 232 South C street, in this city, will be raised from eighty dollars per month to one hundred and twenty dollars per month, which amount (one hundred and twenty dollars) I shall hereafter demand of you monthly in advance, or that you surrender the possession of said premises to me. Yours respectfully,

WM. OSBORNE.

Form 87.—Demand of Possession of Premises Leased.

Reno, Nevada, Jan. 3, 1890.

Mr. Samuel Snyder:

SIR—Whereas [one] month's rent for my building [or for room No. — in my building], numbered 77, on Virginia street, in the town of Reno, Washoe County, Nevada, leased by you from me, is now past due: You will hereby take notice that I demand that you surrender the possession of said premises to me within six [or three] days after the service of this notice on you. Yours respectfully,

JOHN SUNDERLAND.

The above form will answer under either Act in Nevada, inserting "three days" if the proceeding be under one Act and six days under the other.

[NOTE.—There is a bill respecting Mechanics' Liens pending in the present Legislature of California, which contains many excellent features. Should it become a law, the forms given in this chapter would still be good under it, for it is in harmony with these forms, but proposes to extend the time for filing liens to *six months* from the time the last work was done on, or the last materials were furnished for, the building or structure.]

CHAPTER IX.

MINING STATUTE OF MAY 10, 1872.

An Act to Promote the Development of the Mining Resources of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

SECTION 1. That all valuable mineral deposits in land belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as they are applicable and not inconsistent with the laws of the United States.

SEC. 2. That mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits heretofore located shall be governed, as to the length along the vein or lode, by the customs, regulations and laws in force at the date of their location. A mining claim located after the passage of this Act, whether located by one or more persons, may equal but shall not exceed one thousand five hundred feet in length along the vein or lode; but *no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located.* No claim shall extend more than three hundred feet *on each side of the middle of the vein at the surface*, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitations necessary. *The end lines of each claim shall be parallel to each other.*

SEC. 3. That the *locators* of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode or ledge situated on the public domain, *their heirs and assigns*, where no adverse claim exists at the passage of this Act, so long as they comply with the laws of the United States and the State, Territorial and local regulations, not in conflict with the said laws of the United States governing their possessory title, *shall have the exclusive*

right of possession and enjoyment of all the surface included within the lines of their locations and of all the veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of said surface locations; provided, that their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward, as aforesaid, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges; and provided further, that nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That, where a tunnel is run for the development of a vein or lode or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes *within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist*, discovered in such tunnel, to the same extent as if discovered from the surface, and locations, on the lines of such tunnel, of veins or lodes not appearing on the surface, *made by other parties after the commencement of the tunnel and while the same is being prosecuted with reasonable diligence, shall be invalid*; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations, not in conflict with the laws of the United States or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements:

The location must be distinctly marked on the ground, so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims, located by reference to some natural object or permanent monument, as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars' worth of labor shall be performed or

improvements made *each year for each one hundred feet along the vein*, until a patent shall have been issued therefor; *but where such claims are held in common*, such expenditure may be made upon any one claim, *and*, upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be opened to re-location in the same manner as if no location of the same had ever been made; *provided*, that *the original locators*, their heirs, assigns, or legal representatives, *have not resumed work upon the claim* after such failure and before such re-location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this Act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner *personal notice in writing*, or notice by publication in the newspaper published nearest the claim, for at least *once a week for ninety days*, and if, at the expiration of *ninety days* after such notice in writing or by publication, such delinquent should fail or refuse to contribute his proportion to comply with this Act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

[The title of the co-owners will be perfect as soon as the ninety days have elapsed after the completion of the notice, unless their co-owner has paid up meantime, but to make such title a matter of record the party who served the notice personally, or, in case of publication, the publisher of the paper in which the notice was published, should make an affidavit of the service of such notice, and its publication, attaching such notice to the affidavit, before some officer authorized to administer an oath, and such affidavit and copy of notice, should be filed with the County Recorder of the county in which the claim is located and recorded. If the notice were personally served by the Sheriff, his return of the fact on the notice might be sufficient.]

SEC. 6. That a patent for any land claimed and located for valuable deposits, may be obtained in the following manner: Any person, association, or corporation, authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this act, may file in the proper land-office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim, or claims in common, made by or under the direction of the United States Surveyor-General, showing accurately the boundaries of the claim or claims, *which shall be distinctly marked by monuments on the grounds*, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place *on the land embraced in such*

plat, previous to the filing of the application for a patent, and shall file an affidavit of at least two persons, that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land-office, and shall thereupon be entitled to a patent for said land in the following manner: The Register of the Land-office, upon the filing of such application, plat, and field-notes, notices, and affidavits, shall publish a notice that such publication has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant, at the time of filing his application, *or at any time thereafter within the sixty days of publication*, shall file with the Register a certificate of the United States Surveyor-general that five hundred dollars worth of labor has been expended, or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description to be incorporated in the patent. At the expiration of the sixty days of publication, the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place *on the claim*, during said period of publication. If no adverse claim shall have been filed with the Register and Receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists, and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and showing the nature, boundaries and extent of such adverse claim; and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall be settled or decided by a Court of competent jurisdiction or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a Court of competent jurisdiction to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure to do so shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the Register

of the Land-office, together with the certificate of the Surveyor-general, that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the Receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the Register to the Commissioner of the General Land-office, and a patent shall issue thereon for the claim or such portion thereof as the applicant shall appear, from the decision of the Court, to rightly possess. If it shall appear, from the decision of the Court, that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the Surveyor-general, whereupon the Register shall certify the proceedings and judgment-roll to the Commissioner of the General Land-office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proofs of citizenship under this Act or the Acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in the case of an individual, may consist of his own affidavit thereof; and, in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief; and in case of a corporation organized under the laws of the United States, of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

SEC. 8. That the description of vein or lode claims upon *surveyed lands* shall designate the location of the claim, with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued, as aforesaid, for claims upon unsurveyed lands, the Surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the part or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections one, two, three, four and six of an Act entitled "An Act Granting the Right of Way to Ditch and Canal Owners over the Public Lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, are hereby repealed; but such repeal shall not affect existing rights. Application for patents for mining claims now pending may be prose-

cuted to a final decision in the General Land-office; but in such cases, where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this Act; and all patents for mining claims heretofore issued under the Act of July twenty-sixth, eighteen hundred and sixty-six, shall convey all the rights and privileges conferred by this Act where no adverse rights exist at the time of the passage of this Act.

SEC. 10. That the Act entitled "An Act to amend an Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this Act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivision, no further survey or plat shall be required; and all placer mining claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; *provided*, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this Act, when not in conflict with existing laws, shall apply to such cases; *and, provided, also*, That where, by the segregation of mineral land in any legal subdivision, a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party, qualified by law, for homestead or pre-emption purposes.

SEC. 11. That where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this Act and the Act entitled "An Act to amend an Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy) a patent shall issue for the placer claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty

cents per acre, together with all costs of proceedings; and *where a vein or lode, such as is described in the second section of this Act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim, which does not include an application for the vein or lode claim, shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or a lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.*

SEC. 12. That the Surveyor-general of the United States may appoint, in each land district containing mineral lands, as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States Deputy Surveyor to make the survey. The Commissioner of the General Land-office shall also have power to establish the maximum charges for surveys and publication of notices under this Act; and in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated, for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the Register a sworn statement of all charges and the fees paid by said applicant for publication and survey, together with all fees and money paid the Register and Receiver of the Land-office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land-office. The fees of the Register and the Receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed; and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the Land-office, such fees and allowances to be paid by the respective parties, and no other fees shall be charged by them in such cases. Nothing in this Act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this Act, or of the Act entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six; nor shall this Act affect any right

acquired under said Act; and nothing in this Act shall be construed to repeal, impair, or in any way affect the provisions of the Act entitled "An Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

SEC. 13. That all affidavits required to be made under this Act or the Act of which it is amendatory may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the Register and Receiver of the Land-office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided, on personal notice of at least ten days to the opposing party, or, if said party can not be found, then by publication of at least once a week for thirty days in a newspaper to be designated by the Register of the Land-office as published nearest to the location of such land, and the Registers shall require proof that such notice has been given.

SEC. 14. That, *where two or more veins intersect or cross each other, priority of title shall govern*, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; *provided, however*, that the subsequent location shall have the right of way *through* said space of intersection for the purpose of the convenient working of the said mine; *and provided also*, that where two or more veins unite, *the oldest or prior location shall take the vein below the point of union*, including all the space of intersection.

SEC. 15. That, where non-mineral land, not contiguous to the vein or lode, is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this Act to veins or lodes; *provided*, that no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this Act for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill-site as provided in this section.

SEC. 16. That all Acts and parts of Acts inconsistent herewith are hereby repealed; *provided*, nothing contained in this Act shall be construed to impair, in any way, rights

or interests in mining property acquired under existing laws.

Approved May 10, 1872.

MINING STATUTE OF JULY 26, 1866.

The following sections of the Act of Congress approved July 26, 1866, respecting mining, etc., are still in force, the sections of the Act which have been repealed being omitted.

SECTION 5. *And be it further enacted:* That, as a further condition of sale, in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines, involving easements, drainage, or other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 7. *And be it further enacted:* That the President of the United States be, and is hereby, authorized to establish additional land districts, and to appoint the necessary officers, under existing laws, whenever he may deem the same necessary for the public convenience in executing the provisions of this Act.

SEC. 8. *And be it further enacted:* That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted:* That whenever, by priority of possession, rights to the use of water for mining, agricultural, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of the Courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed; *provided, however,* that whenever, after the passage of this Act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the injured party for such injury or damage.

SEC. 10. *And be it further enacted:* That whenever, prior to the passage of this Act, upon lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens; which homesteads have been

made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the Act of Congress, approved May twenty, eighteen hundred and sixty-two, entitled "An Act to Secure Homesteads to Actual Settlers on the Public Domain," and Acts amendatory thereof.

SEC. 11. *And be it further enacted:* That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Approved July 26, 1866.

MINING STATUTE OF JULY 9, 1870.

An Act to Amend an Act Granting the Right of Way to Ditch and Canal-owners over the Public Lands, and for other purposes.

[In presenting this Act, the words "And be it further enacted," which unnecessarily precede each section of the Act, will be omitted.]

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That the Act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July twenty-six, eighteen hundred and sixty-six, be, and the same is hereby amended, by adding thereto the following additional sections, numbered twelve, thirteen, fourteen, fifteen, sixteen and seventeen respectively, which shall hereafter constitute and form a part of the aforesaid Act.

SEC. 12. That claims usually called "placers," including all forms of deposit except veins of quartz or other rock in place, shall be subject to entry and patent under this Act, under like circumstances and conditions, and upon similar proceedings as are provided for vein or lode claims; *provided*, that where the lands have been previously surveyed

by the United States, the entry, in its exterior limits, shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre; *provided further*, that legal subdivisions of forty acres may be subdivided into ten-acre tracts, and that two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; *and provided further*, that no location of a placer claim hereafter made shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any *bona fide* pre-emption or homestead claim upon agricultural lands, or authorize the sale of any *bona fide* settler to any purchaser.

SEC. 13. That where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the Statute of Limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a patent thereto under this Act, in the absence of any adverse claim; *provided, however*, that nothing in this Act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

SEC. 14. That all *ex parte* affidavits required to be made under this Act, or the Act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated.

SEC. 15. That the Registers and Receivers shall receive the same fees for services under this Act as are provided by law for like services under other Acts of Congress; and that effect shall be given to the foregoing Act according to such regulations as may be prescribed by the Commissioner of the General Land-office.

SEC. 16. That so much of the Act of March third, eighteen hundred and fifty-three, entitled "An Act to Provide for the Survey of the Public Lands of California, the Granting of Pre-emption Rights, and for other purposes," as provides that none other than township lines shall be surveyed where the lands are mineral, is hereby repealed; and the public surveys are hereby extended over all such lands; *provided*, that all subdividing of the surveyed lands into lots of less than one hundred and sixty acres may be done by county and local surveyors, at the expense of the claimants; *and provided further*, that nothing herein contained shall require the survey of waste or useless land.

SEC. 17. That none of the rights conferred by sections five, eight, and nine of the Act of which this is amendatory, shall be abrogated by this Act; and the same are hereby *extended to all public lands affected by this Act*, and all patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under or recognized by the ninth section of the Act of which this Act is amendatory. But nothing in this Act shall be construed to repeal, impair, or in any way affect the provisions of the "Act granting to A. Sutro the Right of Way and other Privileges to aid in the Construction of a Draining and Exploring Tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Approved July 9, 1870.

The foregoing constitute the present laws of Congress respecting mining claims anywhere within the United States, and control the location and extent of all mining claims in districts which do not confine claimants to smaller quantities. Where mining districts are not organized or have become obsolete, the claims should be recorded with the County Recorder of the county in which the claim is located, and in Nevada now, in all cases it is better, at least, to do so. The italics in the body of the sections have been inserted for convenience.

In the case of the *Flagstaff Silver Mining Company vs. Helen Turbet* (Utah), the Supreme Court of the United States laid down the following suggestive rules:

First. The location of a mining claim upon a lode or vein of ore should be laid along the same lengthwise of its course, at or near the surface, both under the Mining Act of 1866 and that of 1872.

Second. Each locator is entitled to follow the dip of the lode or vein to an indefinite depth, even though it carries him outside of the side lines of the location, but this right is based on the hypothesis that the side lines substantially correspond with the course of the lode or vein at the surface, and that it is bounded at each end by the end lines of the location, crossing the lode or vein and extended perpendicularly downwards and indefinitely in their own direction.

Third. If the location be laid crosswise of the lode or vein, so that its greatest length crosses the same instead of following the course thereof, it will secure only so much of the vein as it actually crosses at the surface, and the side

lines of the location will become the end lines thereof, for the purpose of defining rights of owners.

Fourth. A locator working subterraneously into the dip of the vein belonging to another locator, who is in possession of his location, is a trespasser and liable to action for taking ore therefrom. In accordance with these principles this Court holds that the Flagstaff Company is outside of its rightful boundaries, and it therefore affirms the judgment of the lower Court in favor of Helen Tarbet.

NOTICE OF LOCATION OF MINING CLAIM.

Where there are no district mining laws, or where such laws are in accordance with the mining laws of the United States, or where the mining laws of the district have become inoperative by general consent of the people of the district or otherwise, is given in

Form 102.

Notice is hereby given that I, the undersigned, claim fifteen hundred feet, linear measure, on this lode or vein of gold and silver-bearing quartz, commencing at this notice and monument, and running northerly therefrom along the line of the lode, a distance of eight hundred feet to a monument of stone, and southerly along the line of said lode, a distance of seven hundred feet to a monument of stone, with the dips, spurs, and angles of said lode, together with the surface-ground on each side of said lode, bounded and described as follows, to wit: commencing at the monument last named, and running easterly therefrom, at a right angle with the general direction of said lode, three hundred feet to a monument of stone; thence at a right angle northerly, fifteen hundred feet, to a monument of stone; thence at a right angle westerly, six hundred feet to a monument of stone; thence at a right angle southerly, fifteen hundred feet to a monument of stone, and thence at a right angle easterly, three hundred feet, to the place of beginning. Said lode and claim shall be called the "Churchman Claim and Lode;" and is located under and by virtue of the mining laws of Congress of the United States and the laws of Spanish Belt Mining District, Nye County, State of Nevada.

WM. D. PLUM.

Spanish Belt, January 3, 1880.

Instead of the words "a monument of stone," the words "a stake," can be used; or any manner of description can be adopted which will describe the boundaries of the claim thoroughly and definitely.

Form 103.—Notice of Location of a Mining Claim.

We, the undersigned, hereby give notice that we claim fifteen hundred feet linear measure on this lode or vein of gold and silver-bearing quartz, commencing at this notice and monument and running in a south-easterly direction therefrom, along the line of said lode fifteen hundred feet, with the dips, spurs and angles of said lode, and — feet on each side thereof, the corners of our surface-claim being marked with monuments of stone; under and by virtue of the mining laws of — mining district, County of —, and State of —, each of the undersigned being entitled to and claiming an undivided interest of three hundred feet of said lode.

The lode shall be known as the — lode, and the claim shall be called the — mining claim.

S. W. POWELL.
GEO. PATON.
B. B. JACKSON.
CHAS. KIMBALL.
W. H. SMITH.

The foregoing will be sufficient for guides in locating any quartz mining claim.

Form 104.—Location of a Spring.

Notice is hereby given to all whom it may concern: That I [or we], the undersigned, claim this spring of water and all the waters flowing therefrom, for culinary and drinking purposes and for purposes of irrigation; also for mining, milling, mechanical, manufacturing and agricultural, and other purposes; together with the land immediately about the same, bounded and described as follows, to wit: Beginning at the stone monument about seventy feet north-west of said spring, and running south therefrom — feet to a monument of stone; thence east — feet to a stone monument; thence north — feet to a stone monument, and thence west — feet to the place of beginning.

— County, State of —. Claimed and located this — day of —, A. D. 18—.

JOHN OAKS.

A copy of the notice should be recorded with the County Recorder of the county in which the spring is situated, and a trench should be dug from the spring to some point, and all the water of the spring turned through the ditch, or it may be conducted through a pipe. It would be better to dig out and wall up the spring and to fence the ground, if convenient, around it. It must certainly be so marked as to show the claimant's intention of appropriating it permanently, and the appropriation must be followed up by acts of ownership. The same rule will apply to the following:

Form 105.—Claim of Water Right.

Notice is hereby given to all whom it may concern: That we, the undersigned, claim two hundred inches, miners' measurement [or all], of the waters of this creek for milling, manufacturing, agricultural, and culinary purposes, and for such other purposes as we may desire to use the same; together with so much of the ground, rock, and earth about this point on said stream as may be necessary for the construction and maintenance of a dam across said stream. The point at which we take the waters of said stream for the purposes aforesaid is described as follows, to wit: Commencing at the large point of rocks about — feet from this notice on the right bank of said stream, and running thence across the stream along the line of rocks thrown into the stream as a temporary and partial dam, to the opposite bank of said stream, near to the large pine tree on its left bank. This claim shall be known as the "Three P. Water Right," County of —, State of —.

Located and claimed this — day of —, A. D. 18—.

S. G. STEBBINS.

C. A. RICHARDSON.

J. A. CALDWELL.

A. M. ELSWORTH.

The claim must be recorded as stated above.

Miners' measurement is measurement of water through a rectangular orifice containing the given number of square inches under a pressure of not less than a full head of water at the top of the discharging orifice; and, to appropriate any number of inches of water, the flume or race at and leading from the dam must be of a capacity equal to the number of square inches claimed.

Form 106.—Claim of Water for Mill Purposes.

I claim all the waters of this stream for the use and benefit of the quartz mill which I intend to erect on said stream, and for other purposes, and I appropriate the said waters by the dam and the race, leading therefrom and conducting the said waters from this point.

Located and claimed this — day of —, A. D. 18—,
County of —, State of —.

J. B. JOHNSON.

The United States Land-offices in California are at the following-named places: San Francisco, Marysville, Humboldt, Stockton, Visalia, Sacramento, Los Angeles, Shasta, Susanville, and Bodie.

In Nevada those offices are at Carson City and Eureka.

In Colorado they are at Denver City, Leadville, Central City, Pueblo, Del Norte, and Lake City.

In Oregon they are at Oregon City, Roseburg, Le Grand, Lake View, and the Dalles.

In Washington Territory they are at Olympia, Vancouver, Walla Walla, and Colfax.

In Idaho they are at Boise City, Lewiston, and Oxford.

In Montana they are at Helena and Bozeman.

In Dakota they are at Sioux Falls, Springfield, Fargo, Yankton, Bismarck, and Deadwood.

In Wyoming they are at Cheyenne and Evanston.

In Utah it is at Salt Lake City.

In New Mexico they are at Santa Fe and Messilla.

In Arizona they are at Prescott and Florence.

In Nebraska they are at Norfolk, Beatrice, Lincoln, Niobrara, Grand Island, North Platte, and Bloomington.

In Kansas they are at Topeka, Salina, Independence, Wichita, Kirwin, Concordia, Larned, and Wa Keeney.

FORMS REQUIRED UNDER MINING ACT OF MAY 10, 1872.**Form A.—Notice of Location.**

[BANCROFT'S BLANK, No. 337.]

Notice is hereby given that the undersigned, having complied with the requirements of the mining act of Congress, approved May 10, 1872, and the local customs, laws, and regulations, has

located fifteen hundred linear feet on the — lode (twenty acres of placer mining ground) situated in — mining district, — county, —, and described as follows:

[Describe the claim accurately, by courses and distances, if possible; by legal subdivisions, if a placer claim is located on surveyed land.]

Located — 18—.

Recorded — 18—.

_____,
Name of locator.)

Record of location notices, in absence of a District Recorder, should be made with the proper Recorder of Deeds for the county wherein the claim is situated. The affidavits of at least two disinterested persons that all the requirements of the Congressional and local laws have been complied with should also be recorded, substantially as follows:

Territory of —, }
County of —. } ss.

— and —, each for himself, and not one for the other, being first duly sworn, deposes and says, that he is of lawful age, and a citizen of the United States; that he has read the notice of location of fifteen hundred feet on the — lode, by Richard Roe; that the description of said lode, viz.:

[Give description.]

as therein given is true and correct; that the said Richard Roe has, in every respect fully complied with the requirements of the mining act of Congress, approved May 10, 1872, and the local customs and laws regulating mining locations.

Subscribed and sworn to before me, this — day of —, A. D. 18—, and I hereby certify that I consider the said — and — credible and reliable persons.

[SEAL.]

Notary Public (or other officer using a seal.)

Form B.—Request for Survey.

[BANCROFT'S BLANK, No. 338.]

—, Esq., U. S. Surveyor-general.

_____, 18—.

SIR: In accordance with the provisions of the mining act of May 10, 1872, I have the honor to apply for an official survey of the mining claim known as the — mine, situated in — min-

ing district, — county, in Township — of Range —, meridian, — of —, and request an estimate of the amount to be deposited for the work to be done in your office.

Thereafter I have to request that you will issue the necessary instructions to —, Esq., U. S. Deputy Surveyor, with whom I have made satisfactory arrangements for field work in surveying the premises.

Very respectfully,

—, Claimant.

P. O. address, —, — County, —.

[NOTE.—Survey is not required when placer claims embrace legal subdivisions.]

Form C.—Application for Patent.

[BANCROFT'S BLANK, No. 339.]

— of —, }
County of —. } ss.

Application for patent for the — mining claim.

To the Register and Receiver of the U. S. Land-office at —, —, being duly sworn according to law, deposes and says, that in virtue of a compliance with the mining rules, regulations, and customs, by himself, the said — (and his co-claimants, —, —), applicants for patent herein, ha— become the owner— of, and are in the actual, quiet, and undisturbed possession of, and entitled to the possession of — linear feet of the — vein, lode, or deposit, bearing —, together with surface ground — feet in width, for the convenient working thereof, as allowed by local rules and customs of miners; said mineral claim, vein, lode, or deposit and surface ground being situate in the — mining district, county of —, and — of —, and being more particularly set forth and described in the official field notes of survey thereof, hereto attached, dated the — day of —, A. D. 18—, and in the official plat of said survey, now posted conspicuously upon said mining claim or premises, a copy of which is filed herewith. Deponent further states that the facts relative to the right of possession of himself (and his said co-claimants hereinbefore named) to said mining claim, vein, lode, or deposit and surface-ground, so surveyed and platted, are substantially as follows, to wit:

[Description of claim.]

Which will more fully appear by reference to the copy of the original record of location, and the abstract of title hereto attached and made a part of this affidavit; the value of the labor

done and improvements made upon said — claim by himself and his grantors, being equal to the sum of five hundred dollars in gold coin of the United States.

In consideration of which facts, and in conformity with the provisions of the Act of Congress approved May 10, 1872, entitled "An Act to promote the development of the mining resources of the United States," application is hereby made for and in behalf of said —, and —, for a patent from the government of the United States, for the said — mining claim, vein, lode, deposit and the surface-ground, so officially surveyed and platted.

Subscribed and sworn to before me, this — day of —, A. D. 18—; and I hereby certify that I consider the above deponent a credible and reliable person, and that the foregoing affidavit, to which was attached the field notes of survey of the — mining claim, was read and examined by him before his signature was affixed thereto and the oath made by him.

[SEAL.]

[The above form is slightly changed in applying for placer mines.]

Form D.—Proof of Posting Notice and Diagram of the Claim.

[BANCROFT'S BLANK, No. 340.]

— of —, }
County of —. } ss.

— and —, each for himself and not one for the other, being first duly sworn according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and was present on the — day of —, A. D. 18—, when a plat representing the —, and certified to as correct by the U. S. Surveyor-general of —, together with a notice of the intention of — and — to apply for a patent for the mining claim and premises so platted, was posted in a conspicuous place upon said mining claim; to wit, upon —, where the same could be easily seen and examined; the notice so conspicuously posted upon said claim being in words and figures as follows, to wit:

"Legal Notice of the application of — and — for a United States Patent.

"Notice is hereby given, that in pursuance of the act of Con-

gress, approved May 10, 1872, 'To Promote the Development of the Mining Resources of the United States,' — and — claiming — linear feet of the — vein, lode, or mineral deposit, bearing —, with surface ground — feet in width, lying and being situate within the — mining district, county of — and — of —, has made application to the United States for a patent for the said mining claim, which is more fully described as to metes and bounds, by the official plat, herewith posted, and by the field notes of survey thereof, now filed in the office of the Register of the District, of lands subject to sale at —, which field notes of survey describe the boundaries and extent of said claim on the surface, with magnetic variation at — east, as follows, to wit:

“Beginning, etc.,

[Full description by courses and distances.]

the said mining claim being of record in the office of the Recorder of —, at —, in the county and State aforesaid, the presumed general course or direction of the said — vein, lode, or mineral deposit being shown upon the plat posted herewith, as near as can be determined from present developments, this claim being for — linear feet thereof, together with the surface ground shown upon the official plat posted herewith; the said vein, lode, and mining premises hereby sought to be patented, being bounded on the — by the — mining claim, the said — claim being designated as Lot No. — in the official plat posted herewith.

“Any and all persons claiming adversely the mining ground, vein, lode, premises, or any portion thereof so described, surveyed, platted, and applied for, are hereby notified that unless their adverse claims are duly filed according to law, and the regulations thereunder, within sixty days from the date hereof, with the Register of the U. S. Land-office, at —, in the — of —, they will be barred, in virtue of the provisions of said statute.”

[Name of applicant.]

Dated on the ground, this — day of —, A. D. 18—.

[Names of witnesses.]

Subscribed and sworn to before me, this — day of — A. D. 18—, and I hereby certify that I consider the above deponents credible and reliable witnesses, and that the foregoing affidavit and notice was read by each of them before their signatures were affixed thereto, and the oath made by them.

All proofs required in mining applications may be sworn to before the Register or Receiver of the Land-office, or a Notary Public or other officer authorized to administer oaths, whose official character must be verified under seal.

Form E.—Proof that Plat and Notice Remained Posted on Claim During Publication.

[BANCROFT'S BLANK, No. 341.]

— of —, }
County of —. } ss.

—, being first duly sworn according to law, deposes and says that he is claimant [and co-owner with —] in the — mining claim, — mining district, — county, —; the official plat of which premises, together with a notice of intention to apply for a patent therefor, was posted thereon on the — day of —, A. D. 18—, as fully set forth and described in the affidavit of — and —, dated the — day of —, A. D. 18—, which affidavit was duly filed in the office of the Register at —, in this case; and that the plat and notice so mentioned and described remained continuously and conspicuously posted upon said mining claim from the — day of —, A. D. 18—, until and including the — day of —, A. D. 18—, including the sixty days period during which notice of said application for patent was published in the newspaper.

Subscribed and sworn to before me, this — day of —, A. D. 18—; and I hereby certify that the foregoing affidavit was read to the said — previous to his name being subscribed thereto; and that deponent is a respectable person, to whose affidavit full faith and credit should be given.

[SEAL.]

Notary Public.

Form F.—Register's Certificate of Posting Notice for Sixty Days.

[BANCROFT'S BLANK, No. 342.]

U. S. Land-office, at _____,
_____, 18—.

I hereby certify that the official plat of the — lode was filed in this office on the — day of —, A. D. 18—, and that the attached notice of the intention of — to apply for a patent

for the mining claim or premises embraced by said plat, and described in the field notes of survey thereof, filed in said application, was posted conspicuously in this office on the — day of —, A. D. 18—, and remained so posted until the — day of —, A. D. 18—, being the full period of sixty consecutive days, as required by law; and that said plat remained in this office during that time, subject to examination, and that no adverse claim thereto has been filed.

_____,
Register.

[The notice posted in the office should be attached to this certificate.]

Form G.—Agreement of Publisher.

[BANCROFT'S BLANK, No. 343.]

The undersigned, publisher and proprietor of the —, a daily and weekly newspaper, published at —, county of —, and — of —, do hereby agree to publish a notice, dated U. S. Land-office, —, required by Act of Congress, approved May 10, 1872, of the intention of — to apply for a patent for his claim on the — lode, situated in — mining district, county of —, of —, and to hold the said — alone responsible for the amount due for publishing the same. And it is hereby expressly stipulated and agreed that no claim shall be made against the Government of the United States, or its officers or agents, for such publication.

Witness my hand and seal this — day of —, A. D. 18—.

Witness: _____

Form H.—Proof of Publication.

[BANCROFT'S BLANK, No. 344.]

— of —, }
County of —. } ss.

— being first duly sworn, deposes and says that he is the — of the —, a newspaper published at —, in — County, in the — of —, that the notice of the application for a patent for the — mining claims, of which a copy is hereto attached, was first published in said newspaper, in its issue dated the — of — 18—, and was published in each (daily or weekly) issue of said newspaper for fifty-nine con-

secutive days or eight consecutive weeks thereafter the full period of sixty days, the last publication thereof being in the issue dated the — of —, 18—.

Subscribed and sworn before me, this — day of —, A. D. 18—.

[SEAL.]

_____,
Notary Public.

Form I.—Affidavit of Five Hundred Dollars Improvements.

[BANCROFT'S BLANK, No. 345.]

— of —, }
County of —, } ss.

— and —, of lawful age, being first duly sworn according to law, depose and say that they are acquainted with the — mining claims in — mining district, County and — aforesaid, for which — has made application for patent under the provisions of the Act of Congress, approved May 10, 1872, and that the labor done and improvements made thereon by the applicant and his grantors exceed five hundred dollars in value.

Subscribed and sworn to before me, this — day of —, A. D. 18—.

Form J.—Statement and Charge of Fees.

[BANCROFT'S BLANK, No. 346.]

— of — }
County of —, } ss.

— being first duly sworn according to law, deposes and says that he is the applicant for patent for the — lode in — mining district, County of —, of —, under the provisions of the Act of Congress approved May 10, 1872, and that in the prosecution of said application he has paid out the following amount, viz: To the credit of the Surveyor-general's office, — dollars; for surveying — dollars; for filing in the local land office — dollars; for publication of notice — dollars, and for the land embraced in his claim — dollars.

Subscribed and sworn to before me, this — day of —, A. D. 187—.

[SEAL.]

_____,
Notary Public.

**Form K.—Proof of Ownership and Possession in Case of
Loss or Absence of Mining Records.**

[BANCROFT'S BLANK, No. 347.]

— of —, }
County of —. } ss.

— and —, each for himself, and not one for the other, being first duly sworn according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and a resident of — County, —, and has resided in — mining district, wherein the — mine is situate, since — day of —, 18—. That since said date he has been acquainted with the — mine, and with the possessors and workers thereof. That said mine was located and has been possessed and worked in accordance with the customs and usages of miners in said district, and in conformity with the rules and regulations regulating the location, holding and working of mining claims, in force and observed in the State of —. That there are no written records known to deponent existing in said mining district. That affiant is credibly informed and believes that the — mine was located in the year 18—, and that if any record was made of said location, and of the names of locators, the same has not been in existence for a long number of years past, and that by reason thereof the names of locators can not now be ascertained, and no abstract of title from locators to the present owner can be made. That the possession of applicant and his predecessors in interest of said — mine, has been actual, notorious, and continuous, to the positive knowledge of deponent, since his residence in said mining district, and that such possession has been perfected and maintained in conformity with mining usages and customs, and has been acquiesced in and respected by the miners of the said district. That applicant's right to the said — mine is not in litigation within the knowledge of affiant, and that no action or actions have been commenced, affecting the right to said mine since his acquaintance therewith (and that the time for the commencement thereof, as required to be instituted under the provisions of the Statute of Limitations of the — of — has long since elapsed). That applicant and his predecessors in interest have expended in the improvement, development, and working of said mine, a sum of money exceeding — dollars, as follows, to wit: —.

— —.
— —.

Subscribed and sworn to before me, this — day of —,
A. D. 18—, and I certify that the aforementioned — and —
are credible and respectable persons, to whose affidavits full
faith and credit should be given.

[SEAL.]

Form L.—Affidavit of Citizenship.

[BANCROFT'S BLANK, No. 348.]

— of —, }
County of —, } ss.

— being first duly sworn according to law, deposes and
says, that he is the applicant for patent for — mining claim,
situate in — mining district, County of —, that he is a
na— citizen of the United States, born in the County of —,
State of —, in the year 18—, and is now a resident at —.

Subscribed and sworn to before me, this — day of —,
A. D. 187—.

[SEAL.]

[NOTE.—Naturalized citizens are required to furnish certified copies of their
naturalization papers.]

Form M.—Certificate that no Suit is Pending.

[BANCROFT'S BLANK, No. 349.]

— of — }
County of —. } ss.

I, —, clerk of the — court in and for — county, —,
do hereby certify that there is now no suit or action of any
character pending in said court, involving the right of posses-
sion to any portion of the — mining claim, and that there has
been no litigation before said court affecting the title to said
claim, or any part thereof, for — years last past, other than
what has been finally decided in favor of —.

In witness whereof, I have hereunto set my hand and affixed
the seal of said Court, at my office in —, this — day of
—, A. D. 187—.

[SEAL.]

Clerk of the — Court, —.

Form N.—Power of Attorney.

[BANCROFT'S BLANK, No. 350.]

Know all men by these presents, that we — and —, do hereby constitute and appoint — as our attorney in fact, for us and in our names to make application to the United States for the entry and purchase of certain government lands, in — mining district, — county, — of —, known as the — mining claim and premises; and to have the same surveyed, and to take any and all steps that may be necessary to procure from the government of the United States a patent to the said lands and premises, granting the same to us. And to do all other acts appertaining to the said survey and entry aforesaid, as we ourselves could do by our own act, and in our own proper person.

In witness whereof, we have hereunto set our hands and affixed our seals the — day of —, A. D. 18—.

— of —,
County of —. } ss.

Personally appeared, etc. [Usual acknowledgment.]

Form O.—Protest and Adverse Claim.

[BANCROFT'S BLANK, No. 351.]

United States Land Office, — of —.

In the matter of the application of — for a United States patent for the — lode or mining claim and the land and premises appertaining to said mine, situated in the — mining district in —, county — of —.

To the Register and Receiver of the United States Land-office at —, and to the above-named applicant for patent for the — lode.

You are hereby notified that —, of the — of —, county of —, and — of —, and a citizen of the United States of America, is the lawful owner, and entitled to the possession of — hundred feet of the said — lode or mine described in said application, as shown by the diagram posted on said claim, and the copy thereof filed in the land-office with said application, and as such owner this contestant, the said —, does protest against the issuing of a patent thereon to said applicant, and does dispute and contest the right of said applicant therefor.

And this contestant does present the nature of his adverse

claim, and does fully set forth the same in the affidavit hereto attached, marked exhibit "A," and the further exhibits thereunto attached, and made part of said affidavit.

The said — therefore respectfully asks the said Register and Receiver that all further proceedings in the matter be stayed, until a final settlement and adjudication of the rights of this contestant can be had in a court of competent jurisdiction.

[Place and date.]

[Exhibit "A."]

— of —, }
County of —. } ss.

— being first duly sworn, deposes and says, that he is a citizen of the United States, born in the State of —, and now residing in —; that he is the contestant and protestant named in, and who subscribed the notice and protest hereto annexed. Affiant further says that he is the owner by purchase and in possession of the (adverse) lode or vein of quartz and other rock in place, bearing — and other metals. That said lode is situated in the — mining district, — county, — of —.

[The history of the lode may be given, if deemed advisable, as follows:]

This affiant further says, that on the day of its location the premises hereinafter described were mineral lands of the public domain, and entirely vacant and unoccupied, and were not owned, held, or claimed by any person or party as mining ground or otherwise, and that while the same were so vacant and unoccupied and unclaimed, to wit: On the — day of —, 18— [name locators], each and all of them being citizens of the United States, entered upon and explored the premises, discovered and located the said — lode, and occupied the same as mining claims. That the said premises so located and appropriated consist of — thousand feet in a —erly direction, and — thousand feet in a —erly direction, together with all the dips, spurs, angles, depths, widths, offshoots and variations, as will fully appear by reference to the notice of location, a duly certified copy whereof is hereunto annexed, marked Exhibit "B," and hereby made a part of this affidavit. That said locators, after the discovery of said — lode, drove a stake on said lode on the discovery claim, erected a monument of stone around said stake, and placed thereon a written notice of location, describing the claim so located and appropriated, giving the names of the locators and quantity taken by each, and after doing all the acts and performing all the labor required by the laws and regulations of said — mining district

and territory of —, the locators of said lode caused said notice to be filed and recorded in the proper books of record in the Recorder's office in said district on the — day of —, 18—.

Affiant further says that the said locators remained continuously in possession of said lode, working upon the same, and within — months from the date of said location had done and performed work and labor on said location, in mining thereon and developing the same, of more than — days' work, and expended on said location more than — hundred dollars, and, by said labor and money expended upon the said mining location and claim, had developed the same and extracted therefrom more than — tons of ore.

And affiant further says that said locators, in all respects, complied with every custom, rule, regulation, and requirement of the mining laws, and every rule and custom established and in force in said — mining district, and thereby became and were owners (except as against the paramount title of the United States) and the rightful possessors of said mining claims and premises.

And this affiant further says that said locators proved and established, to the satisfaction of the Recorder of said — mining district, that they had fully complied with all the rules, customs, regulations, and requirements of the laws of said district, and thereupon the said Recorder issued to the locators of said — lode, certificates confirming their titles and rights to said premises.

That the said lode was located and worked by the said locators as tenants in common, and they so continued in the rightful and undisputed possession thereof, from the time of said locations until on or about the — day of —, 18—, at which time the said locators and owners of said lode formed and organized under the laws of the State (or territory) of —, and incorporated under the name of the "—," and, on the — day of —, 18—, each of the locators of said lode conveyed said lode, and each of the rights, titles, and interests in and to said lode, to said "— mining company."

On the said — day of 18— the said company entered into and upon said — lode, and was seised and possessed thereof and every part and parcel of the same, and occupied and mined thereon until the — day of —, 18—, at which time the said — mining company sold and conveyed the same to this affiant, which said several transfers and conveyances will fully

appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D" and made a part of this affidavit.

(In case of individual transfers.) And this affiant further says that the said Richard Roe, who located claim No. 1 northwesterly of the said — lode, and the said John Doe, who located claim No. 2 north-westerly thereon, were seised and possessed of said claims, and occupied and mined thereon until the — day of —, 18—, at which time the said Richard Roe and John Doe sold and conveyed the same to John Smith, and thereupon the said John Smith was seised and possessed of said mining claims and locations, and occupied and mined thereon until the — day of —, 18—, at which time the said John Smith sold and conveyed the same to this affiant, as will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D," and which this affiant hereby makes a part of this his affidavit.

Affiant further says that he is now and has been in the occupation and possession of the said — lode, since the — day of —, 18—, and that said lode and mining claims were located and the title thereto established several — before said (applied for) — lode was located. [In case the history of the lode is not traced, the following may be inserted]: And the record title to said (adverse) lode is in this affiant, as will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D," and which this affiant hereby makes a part of this his affidavit.

Affiant further says that said — lode, as shown by the notice and diagram posted on said claim and the copy thereof filed in the United States Land-office at said —, with said application for a patent, crosses and overlaps said — lode, and embraces about — hundred feet in length by — hundred feet in width of the said — lode, the property of this affiant, as fully appears by reference to the diagram or map duly certified by — United States Deputy Surveyor, hereto attached, marked Exhibit "C," and which diagram presents a correct description of the relative locations of the said (adverse) lode and of the (pretended) (applied for) lode.

Affiant further says that he is informed and believes that said applicant for patent well knew that the affiant was the owner in possession and entitled to the possession of so much of said mining ground embraced within the survey and diagram of said applications as is hereinbefore stated, and that this affiant is entitled to all the — and other metals in said (adverse) lode,

and all that may be contained within a space of — feet on each side of said (adverse) lode.

And affiant further says that this protest is made in entire good faith and with the sole object of protecting the legal rights and property of this affiant in the said (adverse) lode and mining premises.

Subscribed and sworn to before me this — day of —
A. D. 18—.

[Surveyor's Certificate.]

On the diagram marked Exhibit "C" the Surveyor must certify in effect as follows:

I hereby certify that the above diagram correctly represents the conflict claimed to exist between the — and — lodes, as actually surveyed by me. And I further certify that the value of the labor and improvements on the (adverse) lode exceeds five hundred dollars.

[Place and date.]

U. S. Deputy Surveyor.

Form P.—Non-Mineral Affidavit.

[BANCROFT'S BLANK, No. 352.]

County of —, }
— of —. } ss.

—, being duly sworn according to law, deposes and says that he is the identical —, who is an applicant for Government title to the —; that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinabar, lead, tin or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the

purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes.

Subscribed and sworn to before me, this — day of —, A. D. 18—; and I hereby certify that the foregoing affidavit was read to the said — previous to his name being subscribed thereto; and that deponent is a respectable person to whose affidavit full faith and credit should be given.

Form Q.—Proof that no Known Veins Exist in a Placer Mining Claim.

[BANCROFT'S BLANK, No. 353.]

State of —, }
County of —. } ss.

— and —, of the said County and State, being first duly sworn, each for himself, deposes and says that he is well acquainted with the — placer mining claim, embracing (legal subdivisions), situated in the — mining district, in the County of — and State of —, owned and worked by —, applicant for United States patent; that for many years he has resided near and often been upon the said mining premises, and that no known vein or veins of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin or copper exist on said mining claim, or on any part thereof, so far as he knows, and he verily believes that none exist thereon. And further, that he has no interest whatever in the said placer mine of —.

[To be sworn to before an officer using a seal.]

Every requirement of the Act of Congress of May 10, 1872, must be complied with to the letter, or a patent will not be granted.

CHAPTER X.

THE PUBLIC LANDS OF THE UNITED STATES.

The following are sections of the statutes of the United States, and the Acts in force respecting the public lands; including the pre-emption and homestead laws, and the laws concerning stone, timber, saline, bounty, and desert lands; supplemented with forms of affidavits, declarations, etc.

PRE-EMPTIONS.

SECTION 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the Register of the Land-office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

SEC. 2260. The following classes of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding sections, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

SEC. 2261. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section 2259; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

SEC. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the Receiver or Register of the Land-district in which the land is situated that he has never had the benefit of any right of pre-emption under section 2259; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of *bona fide* purchasers, for a valuable consideration, shall be null and void, except as provided in section 2288. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land-office of such district, and to transmit a duplicate copy to the General Land-office, either of which shall be good and sufficient evidence that such oath was administered according to law.

SEC. 2263. Prior to any entries being made under and by virtue of the provisions of section 2259, proof of the settlement and improvement thereby required shall be made to the satisfaction of the Register and Receiver of the land-district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after

the date of such settlement, file with the Register of the proper district a written statement, describing the land settled upon, and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

SEC. 2265. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the Register of the proper land-office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land-office of the approved plat of the township embracing such pre-emption settlement.

SEC. 2267. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the land claimed within thirty months after the date prescribed therein, respectively, for filing their declaratory notices, has expired.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land-office to make before the Register or Receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the Register of the Land-office for the district in which his settlement is made.

SEC. 2269. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the

executor or administrator of the estate of such party, or one of his heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

SEC. 2270. Whenever the vacancy of the office either of Register or Receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land-office, on account of any alleged defect therein.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre-emption.

SEC. 2273. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the Register and Receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land-office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States prior to the survey thereof, and it has been or shall be ascertained, after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land-office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making such contract, to

file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant; *provided*, that in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

SEC. 2275. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections 16 or 36, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections 16 or 36 are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

SEC. 2276. The lands appropriated by the preceding section shall be selected, within the same land-district, in accordance with the following principles of adjustment, to wit: For each township or fractional township containing a greater quantity of land than three quarters of an entire township, one section; for a fractional township containing a greater quantity of land than one half, and not more than three quarters, of a township, three quarters of a section; for a fractional township containing a greater quantity of land than one quarter, and not more than one half, of a township, one half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one quarter, of a township, one quarter section of land.

SEC. 2277. All warrants for military bounty-lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

SEC. 2278. Agricultural college scrip, issued to any State under the Act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty-land warrants, by the preceding section.

SEC. 2279. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any Act of Congress.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre-emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

SEC. 2283. The Osage Indian trust and diminished-reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres or one quarter section to each, in compact form, in accordance with the general principles of the pre-emption laws, under the direction of the Commissioner of the General Land-office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township-plat in the district office where such plat is not on file at date of settlement.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

SEC. 2285. The restrictions of the pre-emption laws, contained in sections 2260 and 2261, shall not apply to any settler on the Osage Indian trust and diminished-reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter section of land in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each such quarter section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

SEC. 2287. Any *bona fide* settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter section of the public lands in any district land-office, and who has been subsequently appointed a Register or Receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by law to the satisfaction of the Commissioner of the General Land-office.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, and for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

HOMESTEADS.

SEC. 2289. Every person who is the head of a family or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre, or eighty acres or less of such unappropriated lands at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person

owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed, in the aggregate, one hundred and sixty acres.

SEC. 2290. The person applying for the benefit of the preceding section shall, upon application to the Register of the Land-office in which he is about to make such entry, make affidavit before the Register or Receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the Register or Receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

SEC. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section 2288, and that he, she, or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

SEC. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

SEC. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason

of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land-office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the Register or Receiver; and upon such affidavit being filed with the Register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land-office, it may be lawful for him to make the affidavit required by law before the Clerk of the Court for the County in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the Register and Receiver.

SEC. 2295. The Register of the Land-office shall note all applications under the provisions of this chapter on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land-office, together with the proof upon which they have been founded.

SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

SEC. 2297. If, at any time after the filing of the affidavit, as required in section 2290, and before the expiration of the five years mentioned in section 2291, it is proved, after due notice to the settler, to the satisfaction of the Register of the Land-office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

SEC. 2298. No person shall be permitted to acquire title to more than one quarter section under the provisions of this chapter.

SEC. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with ex-

isting pre-emption rights; and all persons who may have filed their applications for a pre-emption right prior to the twentieth day of May, 1862, shall be entitled to all the privileges of this chapter.

SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the army or navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section 2289, from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, or making proof of settlement and cultivation as provided by law, granting pre-emption rights.

SEC. 2302. No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February 13, 1862, and every seaman, marine and officer who has served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public land along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement.

SEC. 2305. The time which the homestead settler has served in the Army, Navy or Marine Corps shall be deducted from the time heretofore required to perfect title, or

if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

SEC. 2306. Every person entitled under the provisions of section 2304 to enter a homestead, who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

SEC. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section 2304, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

SEC. 2308. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

SEC. 2309. Every soldier, sailor, marine officer or other person coming within the provisions of section 2304 may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases; but such claimant in person shall, within the time prescribed, make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

SEC. 2310. Each of the chiefs, warriors and heads of families of the Stockbridge Munsee tribes of Indians residing in the County of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation which is abandoned for that purpose may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads to aid them in improving the same.

SEC. 2311. The homestead secured by virtue of the preceding section shall not be subject to any tax, levy or sale, nor shall it be sold, conveyed, mortgaged or in any manner incumbered except upon the decree of the District Court of the United States, as provided in the following section:

SEC. 2312. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section 2310, having filed with the Clerk of the District Court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the Court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

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RESERVATION AND SALE OF TOWN-SITES ON THE PUBLIC LANDS.

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of

suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterwards to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the Register and Receiver of the Land-office in the district in which the reservation may be situated, in accordance with the instructions of the Commissioner of the General Land-office.

SEC. 2382. In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the Recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land-office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land-district, a similar map and statement shall be filed with the Register and Receiver, and at any time after the filing of such map, statement, and testimony in the General Land-office, it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale.

SEC. 2383. When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

SEC. 2384. If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land-office a transcript map, with the statement and testimony called for by the provisions of section 2382, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.

SEC. 2385. In the case of any city or town, in which the lots may be variant as to size from the limitation fixed in section 2382, and in which the lots and buildings, as municipal improvements, cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim under the provisions of that section; but the minimum price of each lot in such city or town, which may contain a greater number of square feet than the maximum named in that section, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish.

SEC. 2386. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town-lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

SEC. 2387. Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the Judge of the County Court for the county in which such town is situated, to enter at the proper land-office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

SEC. 2388. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be filed with the register of the proper land-office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land-office may not have been established, such declaratory statements may be filed with the Surveyor-general of the surveying-district in which the lands are situated, who shall transmit the same to the General Land-office.

SEC. 2389. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.

SEC. 2390. The words "not exceeding five thousand in all," in the preceding section, shall not apply to Salt Lake City, in the Territory of Utah; but such section shall be so construed in its application to that city that lands may be entered for the full number of inhabitants contained therein, not exceeding fifteen thousand; and as that city covers school-section number thirty-six, in township number one north, of range number one west, the same may be embraced in such entry, and indemnity shall be given therefor when a grant is made by Congress of sections 16 and 36, in the Territory of Utah, for school purposes.

SEC. 2391. Any act of the trustees not made in conformity to the regulations alluded to in section 2387 shall be void.

SEC. 2392. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinabar, or copper; or to any valid mining claim or possession held under existing laws.

SEC. 2393. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under

reservations through the land-office by title derived from the crown of Spain, or otherwise.

SEC. 2394. The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections 2387, 2388, and 2389; and in addition to the minimum price of the lands embracing any town-site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town-site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in the sections herein cited shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town-sites in this chapter set forth.

* * * * *

An Act to Amend Section 2291 of the Revised Statutes of the United States, in relation to Proof Required in Homestead Entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by section 2291 of the Revised Statutes of the United States, may be made before the Judge, or, in his absence, before the Clerk of any Court of Record of the County and State, or District and Territory, in which the lands are situated; and if said lands are situated in any unorganized County, such proof may be made in a similar manner in any adjacent County in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the Register or Receiver of the proper land-district; and the same shall be transmitted by such judge, or the clerk of his Court, to the Register and the Receiver, with the fee and charges allowed by law to him; and the Register and Receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

SEC. 2. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the Register.

Approved March 3, 1877.

An Act for the Relief of Settlers on the Public Lands under the Pre-emption Laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That any person who has made a settlement on the public lands under the pre-emption laws, and has subsequent to such settlement changed his filing in pursuance of law to that for a homestead entry upon the same tract of land, shall be entitled to have the time required to perfect his title under the homestead laws computed from the date of his original settlement heretofore made, or hereafter to be made, under the pre-emption laws, subject to all the provisions of the law relating to homesteads.

Approved May 27, 1878.

An Act to Amend an Act entitled "An Act to Encourage the Growth of Timber on the Western Prairies."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the Act to amend the Act entitled "An Act to Encourage the Growth of Timber on Western Prairies," approved March thirteenth, eighteen hundred and seventy-four, be and the same is hereby amended so as to read as follows: That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect, and keep in a healthy, growing condition for eight years ten acres of timber, on any quarter section of any of the public lands of the United States, or five acres on any legal subdivision of eighty acres, or two and one half acres on any legal subdivision of forty acres or less, shall be entitled to a patent for the whole of said quarter section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible witnesses, and a full compliance of the further conditions as provided in section two; *provided, further*, that not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this Act.

SEC. 2. That the person applying for the benefits of this Act shall, upon application to the Register of the land-district in which he or she is about to make such entry, make affidavit, before the Register or the Receiver, or the

Clerk of some Court of Record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to wit: I —, having filed my application, number —, for an entry under the provisions of an Act entitled "An Act to amend an Act entitled 'An Act to Encourage the Growth of Timber on the Western Prairies,'" approved —, 188—, do solemnly swear (or affirm) that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber and for my own exclusive use and benefit; that I have made the said application in good faith and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land and to fully comply with the provisions of this said Act; and that I have not heretofore made an entry under this Act or the Acts of which this is amendatory. And upon filing said affidavit with said Register and said Receiver, and on payment of ten dollars if the tract applied for is more than eighty acres, and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter section under the provisions of this Act shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise, the five acres broken the second year, and to plant in timber, seeds or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds or cuttings the remaining five acres. All entries of less quantity than one quarter section shall be plowed, planted, cultivated and planted to trees, tree-seeds or cuttings, in the same manner and in the same proportion as hereinbefore provided for a quarter section; *provided*, however, that in case such trees, seeds or cuttings shall be destroyed by grasshoppers, or by extreme and unusual drouth, for any year or term of years, the time for planting such trees, seeds or cuttings shall be extended one year for every such year that they are so destroyed; *provided further*, that the person making such entry shall, before he or she shall be entitled to such extension of time, file with the Register and the Receiver of the proper land-office an affidavit, corroborated by two witnesses, setting forth the de-

struction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this Act; *and provided further*, that no final certificate shall be given or patent issued for the land so entered until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this Act, then and in that event such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this Act; *provided*, that the party making claim to said land, either as a homestead settler or under this Act, shall give, at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land-office; and the rights of the parties shall be determined as in other contested cases.

SEC. 4. That no land acquired under the provisions of this Act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

SEC. 5. That the Commissioner of the General Land-office is hereby required to prepare and issue such rules and regulations consistent with this Act as shall be necessary and proper to carry its provisions into effect; and that the Registers and Receivers of the several land-offices shall each be entitled to receive two dollars at the time of entry, and the like sum when the claim is finally established and the final certificate issued.

SEC. 6. That the fifth section of the Act entitled "An Act in Addition to an Act to Punish Crimes Against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations and affidavits required or authorized by this Act.

SEC. 7. That parties who have already made entries under the Acts approved March third, eighteen hundred and

seventy-three, and March thirteenth, eighteen hundred and seventy-four, of which this is amendatory, shall be permitted to complete the same upon full compliance with the provisions of this Act; that is, they shall, at the time of making their final proof, have had under cultivation, as required by this Act, an amount of timber sufficient to make the number of acres required by this Act.

SEC. 8. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved June 14, 1878.

An Act to Provide for the Sale of Desert Lands in Certain States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre, to file a declaration, under oath, with the Register and the Receiver of the land-district in which any desert land is situated, that he intends to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same within the period of three years thereafter; *provided, however,* that the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and if unsurveyed shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the Register and Receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the Receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him; *provided,* that no person shall be permit-

ted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

SECTION 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this Act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land-office in which said tract of land may be situated.

SEC. 8. That this Act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land-office.

Approved March 3, 1877.

An Act Providing for the Sale of Saline Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That whenever it shall be made to appear to the Register and the Receiver of any land-office of the United States that any lands within their district are saline in character, it shall be the duty of said Register and said Receiver, under the regulation of the General Land-office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land-office; and if, upon such testimony, the Commissioner of the General Land-office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land-office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land-office, and sold to the highest bidder for cash at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale, at such land-office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold: *provided*, that the foregoing enactments shall not apply to any State or Territory which has not had a grant of salines by Act of Congress, nor to any State which may have had such

a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this Act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quitclaim of all title of the United States in such lands.

SEC. 2. That all executive proclamations relating to the sales of public lands shall be published in only one newspaper, the same to be printed and published in the State or Territory where the lands are situated, and to be designated by the Secretary of the Interior.

Approved January 12, 1877.

An Act respecting the Limits of Reservations for Town-sites upon the Public Domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town-site under existing laws, unless the entire tract claimed or incorporated as such town-site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

SECTION 2. That where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land-office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes nor devoted to any public use of such town, said entries, if regular in all respects, are hereby confirmed and may be carried into patent; *provided*, that this confirmation shall not operate to restrict the entry of any town-site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section 2389 of the Revised Statutes.

SEC. 3. That, whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section 1 of this Act, the Commissioner of the General Land-office may require the authorities of such town, and it shall be

lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry, and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements, to be taken by the Register and Receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section 1 of this Act, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws; and it shall be the duty of the Secretary of each of the Territories of the United States to furnish the Surveyor-general of the Territory, for the use of the United States, a copy, duly certified, of every Act of the Legislature of the Territory incorporating any city or town, the same to be forwarded by such Secretary to the Surveyor-general within one month from date of its approval.

SEC. 4. It shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of land named in section 2389 of the Revised Statutes, to make such additional entry or entries of contiguous tracts, which may be occupied for town purposes as, when added to the entry or entries theretofore made, will not exceed twenty-five hundred and sixty acres; *provided*, that such additional entry shall not, together with all prior entries, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section 2389.

Approved March 3, 1877.

An Act for the Sale of Timber Lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States or persons who have declared

their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre, and lands valuable chiefly for stone may be sold on the same terms as timber lands; *provided*, that nothing herein contained shall defeat or impair any *bono fide* claim under any law of the United States, or authorize the sale of any mining claim or the improvements of any *bona fide* settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes; *and provided further*, that none of the rights conferred by the Act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An Act granting the Right of Way to Ditch and Canal Owners over the Public Lands and for other purposes," shall be abrogated by this Act; and all patents granted shall be subject to any vested and accrued water-rights or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under and by the provisions of said Act, and such rights shall be expressly reserved in any patent issued under this Act.

SECTION 2. That any person desiring to avail himself of the provisions of this Act shall file with the Register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land-office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant; nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this Act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the Register or the Receiver of the Land-office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to

the same; and any grant or conveyance which he may have made, except in the hands of *bona fide* purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this Act, the Register of the Land-office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the Register of the Land-office satisfactory evidence, first, that said notice of the application prepared by the Register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this Act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase-money of said land, together with the fees of the Register and the Receiver, as provided for in case of mining claims in the twelfth section of the Act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land-office of the papers and testimony in the case, a patent shall issue thereon: *provided*, that any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land-office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this Act by regulations to be prescribed by the Commissioner of the General Land-office.

* * * * *

SEC. 6. That all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Approved June 3, 1878.

An Act making Appropriations to Supply Deficiencies in the Appropriations for Fiscal Years ending June thirtieth, eighteen hundred and seventy-five, and Prior Years, and for Other Purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: * **

SEC. 15. That any Indian, born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon his tribal relations, shall, on making satisfactory proof of such abandonment under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the Act entitled "An Act to Secure Homesteads to Actual Settlers on the Public Domain," approved May twentieth, eighteen hundred and sixty-two, and the Acts amendatory thereof, except that the provisions of the eighth section of the said Act shall not be held to apply to entries made under this Act: *provided, however*, that the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance, or the judgment, decree, or order of any Court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor; *provided*, that any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his formal tribal relations shall be void.

SEC. 16. That in all cases in which Indians have heretofore entered public lands under the homestead law, and have proceeded in accordance with the regulations prescribed by the Commissioner of the General Land-office, or in which they may hereafter be allowed to so enter under said regulations prior to the promulgation of regulations to be established by the Secretary of the Interior under the fifteenth section of this Act, and in which the conditions prescribed by law have been or may be complied with, the entries so allowed are hereby confirmed, and patents shall be issued thereon; subject, however, to the restrictions and limitations contained in the fifteenth section of this Act in regard to alienation and incumbrance.

Approved March 3, 1875.

An Act defining the Manner in which certain Land-scrip may be assigned and located, or applied by Actual Settlers, and providing for the Issue of Patents in the Name of the Locator or his Legal Representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That whenever, in cases prosecuted under the Acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first

section of the act of June tenth, eighteen hundred and seventy-two; providing for the adjustment of private land-claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land-office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid Act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this Act; and said certificate of location or scrip shall be subdivided according to the request of the confirmer or confirmers, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land-office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

SEC. 3. That the Register of the proper land-office upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land-office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

SEC. 4. That the provisions of this Act respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity-certificates of location provided for by the Act of the second of June, eighteen hundred and fifty-eight, entitled "An Act to provide for the Location of certain confirmed private Land-claims in the State of Missouri, and for other purposes."

Approved January 28, 1879.

An Act to grant Additional Rights to Homestead Settlers on Public Lands within Railroad Limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That from and after the passage of this Act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law; *provided:* That in no case shall patent issue upon an additional or new homestead entry under this Act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved March 3, 1879.

An Act to Grant Additional Rights to Homestead Settlers on Public Lands within Railroad Limits in the States of Missouri and Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That from and after the passage of this Act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad, where the even sections have been granted to and received by any railroad

company or by such States respectively in aid of any railroad, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law; *provided*, that in no case shall patent issue upon an additional or new homestead entry under this Act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved July 1, 1879.

An Act to Provide Additional Regulations for Homestead and Pre-emption Entries of Public Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption or homestead entries, such person shall file with the Register of the proper land-office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice the Register shall publish a notice, that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled

to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Approved March 3, 1879.

CRIMES.

SECTION 5392. Every person who having taken an oath before a competent tribunal, *officer, or person*, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any Court of the United States until such time as the judgment against him is reversed.

Suggestions condensed from the Circular of the Commissioners of the General Land-office:

CASH PURCHASES.

The applicant will first present a written application to the Register for the district in which the land desired is situated, describing the tract he wishes to purchase, giving its area—Form No. 14. Thereupon the Register, if the tract is vacant, will so certify to the Receiver, stating the price, and the applicant must then pay the amount of the purchase-money.

In case the duplicate has been duly assigned by the locator, by a valid transfer in accordance with the laws governing transfer of realty in the State where the land is situated, such assignment will be recognized by this office and patent issued accordingly, provided the duplicate with the assignment thereon shall be filed in this office prior to the issuing of patent; but in no case will a patent be canceled for the purpose of making a reissue in the name of the assignee, where such assignment is not in possession of the office prior to date of the patent. Transfers of this kind must in all cases comply strictly with the law of the place, and if the assignor be a married man, and the statute requires the wife to join in the deed, it must be complied with, and in case of failure in this or other vital point the

patent will follow strictly the recital of the certificate and issue only in the name of the original purchaser.

LOCATIONS WITH WARRANTS.

Application must be made as in cash cases, but must be accompanied by a warrant duly assigned as the consideration for the land; yet where the tract is two dollars and fifty cents per acre, the party, in addition to the surrendered warrant, must pay in *cash* one dollar and twenty-five cents per acre, as the warrant is in satisfaction of only so many acres at one dollar and twenty-five cents per acre, or furnish a warrant of such denomination as will, at the legal value of one dollar and twenty-five cents per acre, cover the rated price of the land.

The pre-emption privilege is restricted to heads of families, widows, or single persons over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws.

Where settlements are made on *unsurveyed* lands, settlers are required, within three months after the date of the receipt at the district land-office of the approved plat of the township embracing their claims, to file their declaratory statement with the Register of the proper land-office, Form No. 18, and thereafter to make proof and payment for the tract within thirty months from the expiration of said three months.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it. [Revised Statutes, sec. 2274.]

Should the settler in either of the aforesaid cases die before establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land; the entry to be made in the name of "the heirs" of the deceased settler; and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period during which the pre-emptor would have been entitled to do so had he lived.

Where the applicant has made actual settlement on the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land-office, the affidavit may be made before the Clerk of the Court for the county within

which the land is situated, under section 2294 of the Revised Statutes.

In making final proof, the homestead party may appear in person at the district land-office with his witnesses, and there make the affidavit and proof required in support of his claim; or he may proceed under the Act of March 3, 1877. This prescribes that the party desiring to avail himself thereof must appear with his witnesses before the Judge of a Court of Record of the County and State or district and Territory in which the land is situated, and there make the final proof required by law, according to the forms prescribed, Nos. 30, 31 and 32; which proof, duly authenticated by the Court seal, is required to be transmitted by the Judge or the Clerk of the Court to the Register and Receiver, together with the fee and charges allowed by law.

The Judge being absent in any case, the proof may be made before the Clerk of the proper Court. The fact of the absence of the Judge must be certified in the papers by the Clerk acting in his place.

If the land in any case is situated in an unorganized county, the statute provides that the party may proceed to make the proof in the manner indicated in any adjacent county in the State or Territory. The fact that the county in which the land lies is unorganized, and that the county in which the proof is made is adjacent thereto, must be certified by the officer.

Where a homestead settler dies before the consummation of his claim, the widow, or, in case of her death, the heirs, may continue settlement or cultivation and obtain title, upon requisite proof, at the proper time. If the widow proves up, the title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them.

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States, or the patent will issue to the infants on proof of settlement or cultivation for the prescribed period.

The sale of a homestead claim by the settler to another party before completion of title is not recognized by this office, and vests no title or equities in the purchaser.

As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; but where an entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may be allowed credit for fees and commissions already paid on a new homestead entry.

Sections 2304 to 2309 inclusive, of the Revised Statutes, for the benefit of soldiers and sailors, their widows and minor orphan children, provide:

First. In section 2304, that every soldier and officer in the army, and every seaman, marine and officer of the navy, who served for not less than ninety days in the Army or Navy of the United States, "during the recent rebellion," and who was honorably discharged and has remained loyal to the Government, may enter, under the provisions of the homestead law, one hundred and sixty acres of the public land, to be taken, if desired, from the class of double minimum lands.

Second. In section 2305, that the time of his service, or the whole term of his enlistment if the party was discharged on account of wounds or disability incurred in the line of duty, shall be deducted from the period of five years, during which, as per section 2291, the claimant must, to perfect title, reside upon and cultivate the entered tract, but with the proviso that the party shall, in every case, reside upon, improve and cultivate his homestead for a period of at least one year after he shall have commenced his improvements.

The following proof will be required of parties applying for the benefits of sections 2304, 2305, and 2307, in addition to the prescribed affidavit of the applicant:

First. Certified copy of certificate of discharge, showing when the party enlisted and when he was discharged, or the affidavit of two respectable disinterested witnesses corroborative of the allegations contained in the prescribed affidavit, Form No. 43, on these points, or, if neither can be procured, the party's affidavit to that effect.

Second. In case of widows, the prescribed evidence of military service of the husband, as above, with affidavit of widowhood, giving the date of husband's death.

Third. In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or marriage of the mother. Evidence of death may be the testimony of two witnesses or certificate of a physician duly attested. Evidence of marriage may be certified copy of marriage certificate or of the record of same, or testimony of two witnesses to the marriage ceremony.

All lands obtained under the homestead laws are exempt from liability for debts contracted prior to the issuing of patent therefor.

DESERT LANDS.

By desert lands is meant a class of lands which will not, without irrigation, produce any agricultural crop. Title to such lands in any of the following States and Territories

may be acquired under the Act of Congress of March 3, 1877, viz: the *States of California, Oregon, and Nevada*, and the *Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota*. Any party desiring to avail himself thereof must file with the Register and Receiver of the proper district land-office a declaration in form prescribed, No. 51, which must be under oath and may be executed before either the Register or Receiver or the Clerk of any Court of Record having a seal.

SALINE LANDS.

The Act of Congress of January 12, 1877, provides a mode of proceeding by which public lands indicated by the field-notes of survey or otherwise, to be *saline in character*, may be rendered subject to disposal.

The provisions of this Act do not apply to any lands within the Territories nor to any within the States of Mississippi, Louisiana, Florida, California, and Nevada, none of which have had a grant of salines by Act of Congress.

Where persons desire to secure the title to lands which have been granted by Congress to a State, they should apply in writing (or in person) to the Register of the State Land-office at the capital of the State in which the land is located, for information and proper blanks for the class of land they desire to secure, and inclose postage stamps to pay the return postage on such blanks.

The following forms of Applications, Affidavits, Declaratory Statements, etc., under the different Acts concerning Public Lands, were prescribed by the Commissioner of the General Land-office in September, 1879; and for the convenience of those who may desire to obtain them, the Commissioner's numbers will be preserved in these pages, each number being preceded by the letters L. O., for Land-office. Persons desiring to secure land under any of the Acts should apply by letter, or in person, to the Register of the Land-office of the Land-district in which the desired land is located, for blanks proper for obtaining the class of land desired, and inclose postage stamps, if the application be by letter, to pay the postage on such blanks.

L. O. Form No. 14.—Cash Application.

No. —.

Land-office at —,

(Date) —, 18—.

I, —, of — County, —, do hereby apply to purchase the — of section —, in township —, of range —, containing — acres, according to the returns of the Surveyor-general, for which I have agreed with the Register to give at the rate of — per acre.

—, Register.

L. O. Form No. 16.—Cash Certificate.

No. —.

Land-office at —,

(Date) —, 18—.

It is hereby certified that, in pursuance of law, —, of — County, State of —, on this day purchased of the Register of this office the lot or — of section No. —, in township No. —, of range No. —, containing — acres, at the rate of — dollars and — cents per acre, amounting to — dollars and — cents, for which the said — has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land-office, the said — shall be entitled to receive a patent for the lot above described.

—, Register.

L. O. Form, No. 18.—Declaratory Statement.

I, —, of —, being —, have, on the — day of —, A. D. 18—, settled and improved the — quarter of section No. —, in township No. —, of range No. —, in the district of lands subject to sale at the land-office at —, and containing — acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right under section 2259 of the Revised Statutes of the United States.

Given under my hand this — day of —, A. D. 18—,

In presence of —,

L. O. Form. No. 19.—Declaratory Statement.

I, —, of —, being —, have, since the first day of —,

A. D. 18—, settled and improved the — quarter of section No. —, in township No. —, of range No. —, in the district of lands subject to sale at the land-office at —, and containing — acres, which land had been rendered subject to private entry prior to my settlement thereon; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under section 2259 of the Revised Statutes of the United States.

Given under my hand this — day of —. A. D. 18—.

In presence of — —.

L. O. Form, No. 20.—Affidavit Required.

I, —, claiming the right of pre-emption, under section 2259 of the Revised Statutes of the United States, to the — of section No. —, of town No. —, of range No. —, subject to sale at —, do solemnly — that I have never had the benefit of any right of pre-emption under said section; that I am not the owner of three hundred and twenty acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use or benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

I, —, of the Land Office at —, do hereby certify that the above affidavit was subscribed and sworn to before me this — day of —, A. D. 18—,

L. O. Form No. 23—Homestead.

Application No. —.

Land-office at —.

(Date) —, 18—.

I, —, of —, do hereby apply to enter, under section 2289 of the Revised Statutes of the United States, the — of section —, in township —, of range —, containing — acres.

L. O. Form No. 24—Affidavit.

Land-office at _____,
(Date) _____, 18—.

I, _____, of _____, having filed my application No. _____, for an entry under section 2289 of the Revised Statutes of the United States, do solemnly swear that [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war; that said application, No. _____, is made for his or her exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever], and that I have not heretofore had the benefit of said section 2289.

Sworn to and subscribed, this _____ day of _____, before _____,
_____,
Register, [or Receiver].

L. O. Form No. 26—Notice to Register.

Land-office at _____,
(Date) _____, 18—.

I, _____, of _____, who made Homestead Application No. _____ (or Pre-emption Declaratory Statement No. _____) for the [here describe the land], do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove my claim by the following witnesses, viz: _____, of _____, and _____, of _____.
_____.

L. O. Form No. 30—Final Affidavit.

I, _____, having made a homestead entry of the _____ section No. _____, in township No. _____, of range No. _____, subject to entry at _____, under section 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section 2291 of the Revised Statutes of the United States; and for that purpose do solemnly _____ that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided

thereon since the — day of —, 18—, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

I, —, of the Land-office at —, do hereby certify that the above affidavit was subscribed and sworn to before me this — day of —, 18—.

L. O. Form No. 35.—Affidavit Required of Claimant.

I, —, claiming the right to commute, under section 2301 of the Revised Statutes of the United States, my homestead entry No. —, made upon the — section —, township —, range —, do solemnly swear that I made settlement upon said land on the — day of —, 18—, and that since such date, to wit: on the — day of —, 18—, I have built a house on said land, and have continued to reside therein up to the present time; that I have broken and cultivated — acres of said land, and that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler.

I further swear that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

Subscribed and sworn to before me this
— day of —,

Land-office, —.

—, Register.

L. O. Form No. 36.—Adjoining Farm Homestead.

AFFIDAVIT.

Land-office at —,
(Date) —, 18—.

I, —, of —, having filed my application No. —, for an entry under the provisions of the Act of Congress approved May 20, 1862, entitled "An Act to Secure Homesteads to Actual Settlers on the Public Domain," do solemnly swear that

— [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war]; that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; neither have I heretofore perfected or abandoned an entry made under this Act; that the land embraced in said application No. — is intended for an adjoining farm homestead; that I now own and reside upon an original farm containing — acres, and no more; that the same comprises the — of section —, township —, range —, and is contiguous to the tract this day applied for.

Sworn to and subscribed this — day of —, before —,
 —, —,
 — of the Land-office.

L. O. Form No. 37.—Final Affidavit

REQUIRED OF ADJOINING FARM HOMESTEAD CLAIMANTS.

I, —, having made a homestead entry of the — section No. —, in township No. —, of range No. —, subject to entry at —, for the use of an adjoining farm owned and occupied by me on the — of section No. —, in township No. —, of range No. —, under section 2289 of the Revised Statutes, do now apply to perfect my claim thereto by virtue of section 2291 of the same, and for that purpose do solemnly — that I am a citizen of the United States; that I have continued to own and occupy the land constituting my original farm, having resided thereon since the — day of —, 18—, to the present time, and have made use of the said entered tract as a part of my homestead, and have improved the same in the following manner, viz.: —; that no part of said land has been alienated, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry under the homestead laws.

I, —, of the Land-office at —, do hereby certify that the above affidavit was taken and subscribed before me this — day of —, 18—.

L. O. Form No. 38.—Pre-emption Homestead Affidavit.

[To be used in making final proof in cases where pre-emption filings have been changed to homestead entries under the Acts of March 3, 1877, and May 27, 1878.]

I, —, having changed my pre-emption declaratory statement No. —, filed the — day of —, 18—, alleging settlement the — day of —, 18—, for the — section No. —, in township No. —, of range No. —, to homestead entry original No. —, district of lands subject to entry at —, under the Acts of Congress approved March 3, 1877, and May 27, 1878, do solemnly swear that I have never had the benefit of any right of pre-emption under section 2259 of the Revised Statutes of the United States; that I have not heretofore filed a pre-emption declaratory statement for another tract of land; that I was not the owner of three hundred and twenty acres of land in any State or Territory of the United States at any time during the above-mentioned period of settlement under the pre-emption statutes; that I did not remove from my own land within the State of — to make the settlement above referred to; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my exclusive use or benefit; and that I did not, during the period of pre-emption settlement above mentioned, directly or indirectly, make any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which I might acquire from the Government of the United States would inure, in whole or in part, to the benefit of any person except myself.

I, —, of the Land-office —, do hereby certify that the above affidavit was subscribed and sworn to before me this — day of —, 18—.

L. O. Form No. 39.—Additional Homestead.

ACT OF MARCH 3, 1879.

Application
No. —. }

Land-office at —,
(Date) —, 18—.

I, —, of —, do hereby apply to enter, under the Act of March 3, 1879, the — of section —, in township —, of range —, containing — acres, as additional to my entry No. —, for the — of —, section —, in township —, of range —.

—, Register.

L. O. Form No. 40.—Additional Homestead.—Affidavit.

ACT OF MARCH 3, 1879.

Land-office at _____,
(Date) _____, 18—.

I, —, of —, having filed my application, No. —, for an entry under the Act of March 3, 1879, do solemnly swear that [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war]; that said application No. — is made for my exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever, and that I have not heretofore had the benefit of said Act.

Sworn to and subscribed, this — day of —, before _____.

Register [or Receiver].**L. O. Form No. 41.—Soldier's Homestead.**

HOMESTEAD DECLARATION.

No. —.

Land-office at _____,
(Date) _____, 18—.

I, —, do hereby declare and give notice that I claim for a homestead, under section 2304 of the Revised Statutes of the United States, granting homesteads to honorably-discharged soldiers and sailors, their widows and orphans, the — of section —, of township —, of range —, containing — acres; and I further declare that I take the said tract of land for actual settlement and cultivation, and for my own use and benefit.

Per _____,
His Attorney in fact.**L. O. Form No. 42.—Soldier's Homestead.**

APPLICATION.

Land-office at _____,
(Date) _____, 18—.

I, —, hereby apply to enter, under section 2304 of the Revised Statutes of the United States, the — of section —, of

township —, of range —, containing — acres; and for which I filed my declaration on the — day of —, through —, my duly appointed agent.

I, —, Register of the Land-office at —, do hereby certify that — filed the above application at this office on the — day of —, and that he has taken the oath and paid the fees and commissions prescribed by law.

—, Register.

L. O. Form No. 43.—Soldier's Homestead.

AFFIDAVIT.

No. —.

Land-office at —,
(Date) —, 18—.

I, —, of —, do solemnly swear that I am a —, of the age of twenty-one years, and a citizen of the United States; that I served for ninety days in company —, — regiment, United States volunteers; that I was mustered into the United States military service the — day of —, and was honorably discharged therefrom on the — day of —; that I have since borne true allegiance to the Government; and that I have made my application, No. —, to enter a tract of land under section 2304 of the Revised Statutes of the United States, giving homesteads to honorably discharged soldiers and sailors, their widows and orphan children; that I have made said application in good faith; and that I take said homestead for the purpose of actual settlement and cultivation, and for my own exclusive use and benefit, and for the use and benefit of no other person or persons whomsoever; and that I have not heretofore acquired a title to a tract of land under the homestead laws, or voluntarily relinquished or abandoned an entry heretofore made under the said laws: So help me God.

Sworn to and subscribed before me, —, Register of the Land-office at —, this — day of —, 18—.

—, Register.

L. O. Form No. 44.—Additional Entry.

APPLICATION.

No. —.

Land-office at —,
(Date) —, 18—.

I, —, of — County, State of —, being entitled to the benefits of section 2306 of the Revised Statutes of the United

States, granting additional lands to soldiers and sailors who served in the war of the rebellion, do hereby apply to enter the — of section —, of township —, of range —, containing — acres, as additional to my original homestead on the — of section —, of township —, of range —, containing — acres, which I entered —, 18—, per homestead No. —.

L. O. Form No. 48.—Timber-culture—Act of June 14, 1878.

APPLICATION NO. —.

I, —, hereby apply to enter, under the provisions of the Act of June 14, 1878, entitled "An Act to Amend an Act entitled 'An Act to Encourage the Growth of Timber on the Western Prairies,'" the — of section —, in township —, of range —, containing — acres.

L. O. Form No. 49.—Timber-culture—Act of June 14, 1878.

AFFIDAVIT.

Land-office at —, (Date) —, 18—.

I, —, having filed my application No. —, for an entry under the provisions of an Act entitled "An Act to Amend an Act entitled 'An Act to Encourage the Growth of Timber on the Western Prairies,'" approved June 14, 1878, do solemnly — that I am the head of a family [or over twenty-one years of age], and a citizen of the United States [or have declared my intention to become such]; that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said Act; and that I have not heretofore made an entry under this Act, or the Acts of which this is amendatory.

Sworn to and subscribed before me this — day of —, 18—.

L. O. Form No. 51.—Desert Land Act of March 3, 1877.**DECLARATION.**

No. —.

Land-office at —,

(Date) —, 18—.

I, —, of — county, — of —, being duly sworn, depose and declare, that I am a citizen of the United States, of the age of —, and a resident of said county and —, and by occupation a —; that I intend to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same, within three years from date, under the provisions of the Act of Congress approved March 3, 1877, entitled "An Act to Provide for the Sale of Desert Lands in Certain States and Territories." The desert land which I intend to reclaim does not exceed one section, and is situated in — county, in the — land-district, and is described as follows, to wit: the — of section No. —, township No. —, range No. —, containing — acres. I further depose, that I have made no other declaration for desert lands under the provisions of said Act; that the land above described will not, without irrigation, produce an agricultural crop; that there is no timber growing upon said land; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes, under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I became acquainted with said land by —; and that my declaration therefor is not made for the purpose of fraudulently obtaining title to mineral land, timber land, or agricultural land, but for the purpose of faithfully reclaiming, within three years from the date hereof, by conducting water thereon, a tract of land which is desert land within the meaning of the Act.

Land-office at —,

(Date) —, 18—.

I hereby certify that the foregoing declaration was this day sworn to and subscribed before me.

— Register.

— Receiver.

L. O. Form No. 52.—Desert Land—Act of March 3, 1877.**AFFIDAVIT.**

No. ———.

Land-office at ———,

(Date) ———, 18—.

I, ———, of ——— County, ———, being duly sworn, declare, upon oath, that I am a resident of said County and ———; that I am of the age of ———, and by occupation a ———; that I am well acquainted with the character of each and every legal subdivision of the following described land: The ——— section No. ———, township No. ———, range No. ———, containing ——— acres; that I became acquainted with said land by ———; that I have been acquainted with it for ——— years last past; that I have frequently passed over it; that my knowledge of said land is such as to enable me to testify understandingly concerning it; that the same is desert land within the meaning of the second section of the Act of Congress approved March 3, 1877, entitled "An Act to provide for the Sale of Desert Lands in certain States and Territories;" that said land will not, without artificial irrigation, produce any agricultural crop; that no agricultural crop has ever been raised or cultivated on said land, for the reason that it does not contain sufficient moisture for successful cultivation; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land can not be successfully cultivated without reclamation by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled, because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well-known, patent, and notorious, that the same will not, in its natural condition, produce any crop; that the land is the ———; that there is no timber growing thereon, but that it is devoid of timber; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I am not interested in any way or manner, directly or indirectly, present or prospective, in any appli-

cation or declaration made or to be made for said land, or in the land itself, or in the title which may, by any person or in any manner, be acquired thereto.

L. O. Form No. 58.—Sworn Statement under Act of June 3, 1878.

Land-office at _____,

(Date) _____, 18—.

I, _____, of _____ County, _____, desiring to avail myself of the provisions of the Act of Congress of June 3, 1878, entitled "An Act for the Sale of Timber Lands in the States of California, Oregon, Nevada, and Washington Territory," for the purchase of the _____ of section _____, township _____, of range _____, do solemnly _____ that I _____; that the said land is unfit for cultivation, and valuable chiefly for its _____; that it is uninhabited; that it contains no mining or other improvements _____, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said Act; that I do not apply to purchase the land above described on speculation, but in good faith, to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the government of the United States may inure in whole or in part to the benefit of any person except myself.

Sworn to and subscribed before me this _____

day of _____, 18—.

CHAPTER XI.

OF PATENT RIGHTS.

As Americans are an inventive people, and have a natural love for mechanical and labor-saving contrivances; and as the Government fosters this particular genius of the people by giving to the discoverer and maker of any new and useful machine or device the exclusive right to its use and control for a period of seventeen years from the date of Letters Patent for his invention, the following condensed statement of the principal Rules of Practice in the United States Patent-office, supplemented by forms prepared by the Commissioner of Patents, *showing what must be done to secure Letters Patent* for machines, composition of matter, designs, trade-marks, labels on prints, etc., will be presented in this chapter, together with directions for securing "copyrights."

WHO MAY OBTAIN A PATENT.

Any person, whether citizen or alien, being the original and first inventor or discoverer of any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent for his invention or discovery, subject to the conditions as to public use and abandonment hereinafter named.

In case of the death of the inventor, the patent may be applied for by, and will issue to, his executor or administrator. In case of an assignment of the whole interest in the invention, or of the whole interest in the patent if granted, the patent will issue to the assignee, upon the request of the latter, or his assignor; and so, if the assignee holds an undivided part interest, the patent will, upon a similar request, issue jointly to him and the inventor; but the assignment must first have been entered of record, and at a day not later than the date of the payment of the final fee; and the application must be duly made, and the specification sworn to by the inventor.

Joint inventors are entitled to a joint patent; neither can claim one separately; but the independent inventors of separate and independent improvements in the same machine cannot obtain a joint patent for their separate inventions.

A patent will not be granted to an applicant if what he claims as new has been, before his invention, patented or described in any printed publication *in this country*.

APPLICATION.

No application for a patent can be placed upon the files for examination until the fee is paid, the specification and the petition and oath are filed, and the drawings and a model or specimens (when required) are furnished. The application must be completed and prepared for examination within two years after the filing of the petition.

The application and oath must be made by the actual inventor, if alive, even if the patent is to issue to an assignee; but where the inventor is dead, the application and oath must be made by his executor or administrator.

The application must be in writing, in the English language, and addressed to the Commissioner of Patents. The petition and specification must be separately signed by the applicant. The specification, claims, and all amendments must be written in a fair, legible hand.

The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen, and of what a resident. If the application be made by an executor or administrator, the form of the oath will be correspondingly changed. The oath or affirmation may be made before any person within the United States, authorized by law to administer oaths.

SPECIFICATION.

The specification is a written description of the invention or discovery, and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms, avoiding unnecessary prolixity, as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same. It must be followed by a specific and well-defined claim of the part, improvement, or combination which the applicant regards as his invention or discovery.

Where there are drawings, the specification should refer by letters and figures to the different parts; and it must set forth the precise invention for which a patent is claimed, explaining the principle thereof and the best mode in which the applicant has contemplated applying that principle, so as to distinguish it from other inventions.

In all applications for patents upon mere improvements the specification must particularly point out the part or parts to which the improvement relates, and must by ex-

plait language distinguish between what is old and what is claimed as the improvement.

Two or more separate and independent inventions can not be claimed in one application; but where several inventions relating to the same subject are *necessarily* connected each with the other, they may be so claimed.

If more than one invention is claimed in a single application, and they are found to be of such a nature that a single patent may not be issued to cover the whole, the office will require the inventor to confine the description and claim of the pending application to whichever invention he may elect; the other inventions may be made the subject of separate applications.

The specification must be signed by the inventor or by his executor or administrator, and must be attested by two witnesses. Full names must be given, *and all names, whether of applicants or witnesses, must be legibly written.*

DRAWINGS.

The applicant for a patent is required by law to furnish a drawing of his invention, where the nature of the case admits of it.

Three several editions of patent drawings are printed and published: one for office use, certified copies, etc., of the size and character of those attached to patents, the work being about six by nine and one half inches; one reduced to half that scale, or one fourth the surface, of which four will be printed on a page to illustrate the volumes distributed to the Courts, etc., and one reduction, to about the same scale, of a selected portion of each drawing, to illustrate the Official Gazette.

Drawings should be made on paper stiff enough to stand in the portfolios, the surface of which must be calendered and smooth. "Two-sheet" bristol board or sheets cut from Whatman's hot-pressed drawing paper, "antiquarian" size, are recommended.

Indian ink of good quality, to the exclusion of all other kinds of ink or color, must be employed, to secure perfectly black and solid work.

The size of a sheet on which a drawing is made should be exactly ten by fifteen inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely eight by thirteen inches. Within this margin all work and signatures must be included. One of the smaller sides of the sheet is regarded as its top, and, measuring downward from the marginal line, a space of not less than one and one quarter inches is to be left blank for the insertion of title, name, number, and date. The signatures will be placed in a space left at the bottom of the sheet.

All drawings must be made with the pen only, using the blackest Indian ink. Every line and letter (signatures included) must be *absolutely black*. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be left very open. Sectional shading should be by oblique parallel lines, which may be about one twentieth of an inch apart. The usual reduction will bring them to about one sixteenth of an inch distance.

Drawings should be made with the fewest lines possible consistent with clearness. Shading (except on sectional views) should be used only on convex and concave surfaces, where it should be used sparingly, and may even there be dispensed with if the drawing is otherwise well executed. The plane upon which a sectional view is taken should be indicated on the general view by a broken or dotted line. Heavy lines on the shade sides of objects should be used, except where they tend to thicken the work and obscure letters of reference. The light is always supposed to come from the upper left-hand corner, at an angle of forty-five degrees.

Imitations of wood or surface-graining must never be attempted.

The scale to which a drawing is made ought to be large enough to show the mechanism without crowding, and two or more sheets should be used if one does not give sufficient room to accomplish this end, but the number of sheets must never be increased unless it is absolutely necessary. On the other hand, when an invention is simple and easily understood it should be shown on a small scale, and unnecessary space should not be occupied, even on a single sheet.

Letters of reference must be well and carefully formed. No letter of reference should measure less than one eighth of an inch in height, that it may bear reduction to one twenty-fourth of an inch, and they may be much larger when there is sufficient room.

Reference letters must be so placed in the close and complex parts of drawings as not to interfere with a thorough comprehension of the same, and to this end should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, where there is available space, and connected by short broken lines with the parts to which they refer. They must never appear upon shaded surfaces.

If the same part of an invention appears in more than one figure, it should always be represented by the same letter.

When it is necessary to turn a drawing upon its side in reading a certain figure, its number and reference letters should be made to correspond, and should be so placed that the sheet will be turned to the right.

The signature of the inventor is to be placed at the lower right-hand corner of the sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line. The title should be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office.

Drawings should be rolled for transmission to the office.

No agent's nor attorney's stamp, nor any written address, will be permitted upon the face of a drawing within or without the marginal line.

These rules do not apply to drawings for designs and trade-marks.

The foregoing rules relating to drawings will be rigidly enforced; and all drawing not artistically executed in conformity therewith will be returned to the respective applicants, or, at the applicant's option and cost, the office will make the necessary corrections.

A specimen drawing, illustrating arrangement, style, and quality of work, will be furnished upon request.

All reissue applications must be accompanied by new thick paper drawings, as in original applications.

Applicants are advised to employ competent artists to make their drawings.

MODELS.

A model will be required in every case where the nature of the invention admits of such illustration, except in applications upon designs.

The model must be neatly and substantially made of durable material, metal being deemed preferable; and should not in any case be more than one foot in length, width, or height. If made of pine or other soft wood, it should be painted, stained, or varnished. Glue must not be used, but the parts should be so connected as to resist the action of heat or moisture. A working model is always desirable.

The personal attendance of the applicant at the Patent-office is unnecessary. The business can be done by correspondence or by attorney.

The applicant has a right to amend after the first rejection; and he may amend as often as the examiner presents any new references.

All amendments of the model, drawings, or specification, in the case of original applications which are capable of illustration by drawing or model, must conform to at least one of them as they were at the time of the filing of the ap-

plication; further changes than this can only be made by filing a new application.

All amendments of specifications or claims must be made on separate sheets of paper from the original, and must be filed in the manner above directed. In every case of amendment the exact word or words to be stricken out or inserted should be clearly specified, and the precise point indicated where the erasure or insertion is to be made.

Whenever, on examination, any claim for a patent is rejected for any reason whatever, the applicant will be notified thereof, and the reasons for such rejection will be given.

Every patent will bear date as of a day not later than six months from the time at which the application was passed and allowed and notice thereof was mailed to the applicant or his agent, and if the final fee be not received at the office within that period, the patent will be withheld. The party may, however, obtain a patent upon a new application.

When an application for a patent has been rejected and the applicant fails to renew the same or to file a new one within two years after the date when notice of the last official action was mailed to him or to his agent, his application will be held to have been abandoned.

APPEALS.

Every applicant for a patent or the reissue of a patent, any of the claims of which have twice been rejected, may appeal from the decision of the primary examiner in such case to the Board of Examiners-in-chief, having once paid a fee of ten dollars. For this purpose a petition in writing must be filed, signed by the party, or his authorized agent or attorney, praying an appeal, and setting forth the reasons upon which the appeal is taken.

All cases which have been acted on by the Board of Examiners-in-Chief may be brought before the Commissioner in person, upon a written request to that effect and upon the payment of the fee of twenty dollars required by law.

From an adverse decision upon the claims of an application an appeal may be taken to the Supreme Court of the District of Columbia, sitting *in banc*.

RE-ISSUES.

A re-issue is granted to the original patentee, his legal representatives or the assignees of the entire interest, when, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention or discovery more than he had a right to claim as new, the original

patent is inoperative or invalid, provided the error has arisen from inadvertence, accident or mistake, and without any fraudulent or deceptive intention.

DISCLAIMERS.

Whenever, by inadvertence, accident, or mistake, the claim of invention in any patent is too broad, embracing more than that of which the patentee was the original or first inventor, some material or substantial part of the thing patented being truly and justly his own, the patentee, his heirs or assigns, whether of a whole or of a sectional interest, may, upon payment of the duty required by law, make disclaimer of such parts of the thing patented as the disclaimant shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent, which disclaimer shall be in writing, attested by one or more witnesses.

DESIGNS.

A patent for a design may be granted to any person, whether citizen or alien, who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any articles of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, upon payment of the duty required by law, and other due proceedings had, the same as in cases of inventions or discoveries.

Patents for designs are granted for the term of three and one half years, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

The proceedings in applications for patents for designs are substantially the same as for other patents. The specification must distinctly point out the characteristic features of the design, and carefully distinguish between what is old and what is held to be new. The claims also should be as distinct and specific as in the case of patents for inventions or discoveries.

When the design can be sufficiently represented by drawings or photographs a model will not be required.

Whenever a photograph or an engraving is employed to illustrate the design, it must be mounted upon a thick Bristol-board or drawing-paper, ten by fifteen inches in

size; and the applicant will be required to furnish ten extra copies of such photograph or engraving (not mounted), of a size not exceeding seven and a half inches by eleven. Negatives will no longer be required.

Whenever the design is represented by a drawing, each of the ten copies must be made to conform as nearly as possible to the rules laid down for drawings of mechanical inventions.

TRADE-MARKS.

Any person or firm domiciled in the United States, and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located in any foreign country which, by treaty or convention, affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

First. By causing to be recorded in the Patent-office the names of the parties, and their residences and place of business, who desire the protection of the trade-mark.

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

Third. A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been or is intended to be applied and used.

Fourth. The length of time, if any, during which the trade-mark has been used.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

Seventh. The filing of a declaration, under the oath of the person, or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has a right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected. The oath must also state the domicile and citizenship of the person desiring registration.

The petition asking for registration should be accompanied with a distinct statement or specification, setting forth

the length of time the trade-mark has been used, the mode in which it is intended to apply it, and the particular description of goods comprised in the class by which it has been appropriated, and giving a full description of the design proposed, particularly distinguishing between the essential and the non-essential features thereof.

The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer.

No proposed trade-mark will be received or recorded which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration; or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public.

The fac-similes must be drawn, printed, or otherwise placed upon Bristol-board or stiff paper, and ten additional copies be filed. In lieu of filing the said ten fac-similes, the applicant may furnish a wood-cut, stereotype-plate, or electrotype suitable for printing in the body of the specification.

The right to the use of any trade-mark is assignable by any instrument of writing, and such assignment must be recorded in the Patent-office within sixty days after its execution. The fees will be the same as are prescribed for recording assignments of patents.

CAVEATS.

Any citizen of the United States or alien who has resided for one year last past in the United States, and has made oath of his intention to become a citizen thereof, can file a caveat in the secret archives of the Patent-office, on the payment of a fee of ten dollars therefor. And if, at any time within one year thereafter, another person applies for a patent with which such caveat would in any manner interfere, such application will be suspended, and notice thereof will be sent to the person filing the caveat. The caveator, if he would avail himself of his caveat, must file his application within three months from the day on which the notice to him is deposited in the Post-office at Washington, adding the regular time for the transmission of the same to him. If a caveat is not renewed at the end of the year for which it was filed it will no longer be regarded as in the secret archives of the office.

No caveat can be filed in the secret archives of the office

unless accompanied by an oath of the caveator that he is a citizen of the United States, or, if he is an alien, that he has resided for one year last past within the United States, and has made oath of his intention to become a citizen thereof, nor unless the applicant also states, under oath, that he believes himself the original and first inventor of the art, machine or improvement set forth in his caveat.

When practicable, the caveat must be accompanied by full and accurate drawings, separate from the specifications, well executed on tracing-muslin or paper that may be folded, and of the same size as demanded in drawings for patents.

ASSIGNMENTS.

A patent or trade-mark may be assigned, either as to the whole interest or any undivided part thereof, by an instrument of writing. No particular form of words is necessary to constitute a valid assignment, nor need the instrument necessarily be sealed, witnessed or acknowledged.

In every case where it is desired that the patent shall issue to an assignee, the assignment must be recorded in the Patent-office at a date not later than the day on which the final fee is paid.

Every assignment or grant of an exclusive territorial right, as well as of an interest in a patent or trade-mark, must be recorded in the Patent-office—if a patent, within three months; if a trade-mark, within sixty days from the execution thereof.

The patentee may convey separate rights under his patent to make or to use or to sell his invention, or he may convey territorial or shop-rights which are not exclusive. Such conveyances are mere licenses, and need not be recorded.

OFFICE FEES AND HOW PAYABLE.

The fees payable to the Patent-office are positively required to be paid in advance—that is, upon making application for any action by the office for which a fee is payable.

The following is the tariff of fees established by law:

On filing every application for a design patent for three years and six months.....	\$10 00
On filing every application for a design patent for seven years.....	15 00
On filing every application for a design patent for fourteen years.....	30 00
On filing every caveat.....	10 00
On filing every application for a patent for an invention or discovery.....	15 00
On issuing each original patent for an invention or discovery.....	20 00

On filing a disclaimer	10 00
On filing every application for a re-issue.	30 00
On filing every application for a division of a re-issue. . .	30 00
On filing the first appeal from a Primary Examiner to Examiners-in-Chief.	10 00
On filing an appeal to the Commissioner from Exam- iners-in-Chief.	20 00
On depositing a trade-mark for registration.	25 00
On depositing a label for registration.	6 00
For every certified copy of a patent or other instrument, for every 100 words.	10
For certified copies of drawings, the reasonable cost of making them.	
For recording every assignment of 300 words or under. .	1 00
For recording every assignment, if over 300 and not over 1000 words.	2 00
For recording every assignment, if over 1000 words.	3 00
For uncertified copies of the specifications and accom- panying of patents issued since July 1, 1871—	
Single copies.	25
Twenty copies or more, whether of one or several patents, per copy.	10
For uncertified copies of the specifications and drawings of patents issued prior to July 1, 1871, the reason- able cost of making the same.	

In ordering copies of any drawing or specification the name of the inventor and patentee, the title of the invention and the date of the patent must be given; and for any search required in consequence of the omission of any of these data, a charge of one dollar may be made. So, in ordering a copy of an assignment, the liber and page of the record, as well as the name of the inventor, must be given.

The final fee upon a patent must be paid within six months after the time at which the application was allowed and notice thereof mailed to the applicant or his agent.

The money for the payment of fees may be paid to the Commissioner. Letters containing money may be registered. Post-office money orders now afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

All money sent by mail, either to or from the Patent-office, will be at the risk of the owner. In no case should money be sent inclosed with models. All payments to or by the office must be paid in specie, treasury notes, national bank notes, certificates of deposit, or post-office money orders.

POSTAGE.

The postage on all matter sent to the Patent-office by mail must be prepaid in full, otherwise it will not be received.

RULES OF CORRESPONDENCE.

All correspondence must be in the name of the "Commissioner of Patents," and all letters and other communications intended for the office must be addressed to him, and postage must be prepaid in full. *A separate letter should, in every case, be written in relation to each distinct subject of inquiry or application,* the subject of the invention and the date of filing being always carefully noted.

When an agent has filed his power of attorney, duly executed, the correspondence will, in ordinary cases, be held with him only. The assignee of an entire interest in an invention is entitled to hold correspondence with the office to the exclusion of the inventor.

ATTORNEYS.

Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specification and claims, the assistance of competent counsel will, in most cases, be of advantage to the applicant, but the value of their services will be proportioned to their skill and honesty.

Powers of attorney to authorize the attorney to substitute for or associate with himself a second agent, must contain a clause of substitution.

Form 102.—Petition.

BY A SOLE INVENTOR.

To the Commissioner of Patents:

Your petitioner, a resident of —, prays that letters patent be granted to him for the invention set forth in the annexed specification.

A. B.

Form 103.—Petition.

BY JOINT INVENTORS.

To the Commissioner of Patents:

Your petitioners, residing respectively in — and —, pray that letters patent may be granted to them, as joint inventors, for the invention set forth in the annexed specification.

A. B.
C. D.

Form 104.—Petition.

BY AN INVENTOR FOR HIMSELF AND AN ASSIGNEE.

To the Commissioner of Patents:

Your petitioner, a resident of —, prays that letters patent may be granted to himself and C. D., of —, as his assignee, for the invention set forth in the annexed specification, the assignment to the said C. D. having been duly recorded in the Patent-office, in liber —, page —.

A B.

Form 105.—Petition.

BY AN ADMINISTRATOR.

To the Commissioner of Patents:

Your petitioner, A. B., of —, administrator of the estate of C. D., deceased [as by reference to the duly-certified copy of letters of administration, hereto annexed, will more fully appear], prays that letters patent may be granted to him for the invention of the said C. D., set forth in the annexed specification.

A. B., Administrator, etc.

Form 106.—Petition.

BY AN EXECUTOR.

To the Commissioner of Patents:

Your petitioner, A. B., of —, executor of the last will and testament of C. D., deceased [as by reference to the duly-certified copy of letters testamentary, hereto annexed, will more fully appear], prays that letters patent may be granted to him for the invention of the said C. D., set forth in the annexed specification.

A. B., Executor, etc.

Form 107.—Petition.

FOR LETTERS PATENT FOR A DESIGN.

To the Commissioner of Patents:

Your petitioner, residing in —, prays that letters patent may be granted to him for the term of three and one half years [or "seven years" or "fourteen years"] for the new and original design set forth in the annexed specification.

A. B.

Form 108.—Petition.

FOR THE REGISTRATION OF A TRADE MARK.

To the Commissioner of Patents:

Your petitioners respectfully represent that the firm of A. B., C. D., & Co. is engaged in the manufacture of woven fabrics at — and at —, and that the said firm is entitled to the exclusive use, upon the class of goods which they manufacture, of the trade-mark described in the annexed statement or specification [and accompanying fac-simile].

They therefore pray that they may be permitted to obtain protection for such lawful trade-mark under the law in such cases made and provided.

A. B., C. D., & CO.,

By A. B.

Form 109.—Petition.

FOR THE RENEWAL OF AN APPLICATION.

To the Commissioner of Patents:

Your petitioner represents that on May 8, 1878, he filed an application for letters patent for an improvement in churns, which application was allowed July 7, 1878, but that he failed to make payment of the final fee within the time allowed by law. [Or, "which application has been rejected but has not been abandoned."] He now makes renewed application for letters patent for said invention, and prays that the original specification, oath, drawings, and model may be used as a part of this application.

A. B.

Form 110.—Petition with Power of Attorney.

To the Commissioner of Patents:

Your petitioner, a resident of the city of —, State of —, prays that letters patent may be granted to him for the invention set forth in the annexed specification, and he hereby appoints C. D., of the city of —, State of —, his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent-office connected therewith.

A. B.

Form 111.—Power of Attorney.

If the power of attorney be given at any time other than that of making application for patent, it will be in substantially the following form:

To the Commissioner of Patents:

The undersigned having, on or about the twentieth day of July, 1879, made application for letters patent for an improvement in a horse-power, hereby appoints C. D., of the city of —, State of —, his attorney, with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent-office connected therewith.

A. B.

Signed at —, and State of —, this — day of —, 18—.

Form 112.—Revocation of Power of Attorney.

The undersigned having, on or about the twenty-sixth day of December, 1877, appointed C. D., of the city of — and State of —, his attorney to prosecute an application for letters patent, made on or about the first day of June, 1878, for an improvement in the running-gear of wagons, hereby revokes the power of attorney then given.

Signed at —, this twenty-first day of July, 1879.

A. B.

Form 113.—Specification for a Machine.

To all whom it may concern:

Be it known that I [here insert the name of the inventor], of —, in the County of — and State of —, have invented a new and useful improvement in saw-toothing machines, which improvement is fully set forth in the following specification, reference being had to the accompanying drawings:

The object of my invention is to rapidly form, on the blade of a hand-saw, teeth gradually decreasing in size from the broad to the narrow end of the blade, by the combination, in a saw-toothing machine, of a tapering barrel, E, and a chain, or its equivalent, with rollers, *a a*¹, for feeding, or with a slide for carrying the blade A, as shown in the perspective view, Fig. 1, of the accompanying drawing.

The machine is illustrated more in detail in the plane view, Fig. 3, and in the vertical section, Fig. 2, in which it has not been deemed necessary to show the driving mechanism. The blade is held by and between the two upper rollers, *a a'*, (the latter being a feed-roller,) and two lower rollers, *b b'*, and is made to traverse in the direction of the arrow, at a gradually decreasing speed, by causing a barrel, D, to unwind a chain or its equivalent from a tapering barrel, E, on the shaft B. The several shafts have their bearings in a simple frame, H, the front portion *h* of the latter forming a table, which, in conjunction with the lower rollers, supports the blade, as the latter is caused to traverse with its edges in contact with the adjustable guides *y y*, on the frame. In this table is a fixed die or anvil, *f*, on which the blade bears, and in which is a triangular notch, corresponding in shape to a punch, *e*, on a rapidly revolving disk, G.

As the blade moves at a gradually decreasing speed in the direction of the arrow, the punch will strike triangular pieces from its edge, and the result will be the formation of the desired graduated teeth.

It will be evident that the driving-barrel, D, may be tapering, and the barrel, E, cylindrical, or that both barrels may be tapering, and arranged to feed gradually faster instead of gradually slower, with the same result, and that the blade may be clamped to a guided sliding bed, controlled by a tapering barrel and cord or chain.

I claim as my invention—

The combination in a saw-toothing machine, substantially as described, of a tapering barrel and chain, with a roller for feeding the blade.

A. B.

Witnesses: C. D., E. F.

Form 114.—For a Process.

To all whom it may concern:

Be it known that we, [here insert the names of the inventors] of —, in the county of —, and State of —, have invented a new and useful process for separating smut and other impurities from wheat, which process is fully set forth in the following specification:

This invention relates to that class of processes employed for removing "smut" and other impurities mixed with and adhering to grain; and it consists in mixing "newly slaked" lime

while yet warm, with the grain before it is passed through the smut-mill.

In carrying out our invention, take of lime newly slaked and while yet warm, one and a half pounds to each hundred pounds of wheat. Mix the lime well with the wheat, let it stand one hour, then pass it through a smut-mill in the usual way, and it will be found that all the lime, smut, dirt, and other impurities attached to the wheat, of every kind, and which no smut-mill, without my liming process, will fully separate, will be entirely removed, and the flour will be as white and as sweet as though made from the best of wheat.

We are aware that lime has before been used for the purpose of cleaning wheat, being first mixed with the grain as above proposed, and the whole being then passed through a smut-mill; but in all previous processes, so far as we are aware, the lime has been used in a cold state, and for this reason they have proved ineffectual. We propose to take lime newly slaked and while yet warm.

We claim as our invention—

The process of cleaning wheat by mixing with it lime newly slaked and warm before passing it through a smut-mill, so as to cleanse the wheat from all impurities, substantially as described.

A. B.
C. D.

Witnesses: E. F., G. H.

Form 115.—For a Composition of Matter.

To all whom it may concern:

Be it known that I, [here insert the name of the inventor,] of —, in the county of —, and State of —, have invented a new and useful compound, called “wool-oil,” which compound is fully described in the following specification:

This invention relates to that class of compounds used to lubricate wool in the process of manufacture; and it consists in a composition formed by mixing any one or more of the oils ordinarily used in manufacturing wool, such as olive, lard, or rape-seed oil, with a solution of an oil-soap.

To prepare the wool-oil, take a quantity of oil-soap of any kind, provided the quality be good, and dissolve the same in hot water, say about thirty pounds of oil-soap to thirty gallons of water, or a sufficient quantity of soap to saturate the water. Then take equal parts, by measure, of olive, lard, rape-seed, or

any other kind of oil which can be used on wool in the process of its manufacture, and mix with it the preparation aforesaid, to wit, the soap solution, which, after such mixture, is ready to be used on the wool with as beneficial an effect as if pure oil only had been used. This wool-oil will not decompose by age, because the oil of soap neutralizes the stearine in the oil; hence there is nothing to decompose. And for the same reason spontaneous combustion cannot be produced.

I claim—

A compound consisting of an oil or oils, ordinarily used in the lubrication of wool, in combination with a solution of an oil-soap, substantially as and for the purpose specified.

C. D.

Witnesses: E. F., G. H.

Form 116.—For a Design.

To all whom it may concern:

Be it known that I [here insert the name of the originator of the design], of —, in the county of —, and State of —, have originated and designed a pattern for carpets, or other fabrics, of which the following is a full, clear, and exact description, reference being had to the accompanying photographic illustration or drawing, making part of this specification:

The nature of my design is fully represented in the accompanying photographic illustration, to which reference is made.

A represents a portion of the body of the carpet, and B a portion of the border. The body may be ornamented with any figures that may be selected; but the border consists of three parallel stripes, the middle one wide, and the other two narrow. Along the middle stripe of the border run two angular bars, crossing each other and intertwining, as shown, while the narrow stripes are ornamented with rows of spots arranged in groups of three, so as to form triangles.

I prefer to make the middle stripe white and the side stripes red, while the intertwining bars are of gold and green; but I do not consider the colors selected to be an essential element in my design.

I am aware that carpet-borders composed of a wide central stripe and two narrow side stripes are not new, and I do not claim them. The distinctive character of my design is found in the figures, which are wrought into a border thus composed of stripes.

What I claim as my invention is—

A design for a carpet in which the border is composed of stripes ornamented substantially in the manner above described.

Form 117.—For a Trade-mark.

To all whom it may concern:

Be it known that I [here insert the name of the applicant], of —, in the county of —, and State of —, have adopted for — use a trade-mark for cotton sheetings, of which the following specification is a full, clear, and exact description:

Our trade-mark consists of the words and letters "S. N. & Co.'s Buckeye Sheetings." These have generally been arranged as shown in the accompanying drawing; above and below the figure of a man represented as ascending the side of a mountain and carrying a banner, upon which is inscribed the word "Buckeye;" and the whole has been inclosed within an ornamental border, substantially like that shown in the drawing. But the figure of the man with the banner may be omitted, or some other device substituted for it, and the border may be changed at pleasure, or omitted altogether, without materially changing the character of our trade-mark, the two essential features of which are the letters "S. N. & Co.'s" and the word "Buckeye."

This trade-mark we have used in our business for ten years last past. The particular goods upon which we have used it are made of cotton, and known as "sheetings;" and we have been accustomed to print it in blue ink upon the outside of each piece of the manufactured goods. We have also printed it upon labels, which have afterwards been pasted upon the separate pieces of sheetings, and also placed upon the outside of the cases in which the goods have been packed.

S. N. & Co.,
By S.

Witnesses: A. B., C. D.

Form 118.—Amendment.

Washington, D. C., July 20, 1879.

To the Commissioner of Patents:

In the matter of my application for letters patent for an improvement in wagon-brakes, I hereby amend my specification by striking out all between the ninth and twentieth lines, inclusive, on page 3; by inserting the words "*connected with*" after the word "*and*" in the first line of the second claim; and

by striking out the third claim and substituting therefor the following:

8. The combination of the self-acting brake C, pin A, and slotted flanges D, substantially as described, and for the purposes set forth.

A. B.,
By C. D.,
His Attorney in Fact.

Form 119.—Oath.

BY A SOLE INVENTOR.

[To follow specification.]

State of —, }
County of —. } ss.

A. B., the above-named petitioner, being duly sworn [or affirmed], deposes and says that he verily believes himself to be the original and first inventor of the improvement in seed-drills described and claimed in the foregoing specification; that he does not know and does not believe that the same was ever before known or used; and that he is a citizen of the United States, and a resident of —.

A. B.

Sworn to and subscribed before me
this thirteenth day of March, 1879.
C. D.,

Justice of the Peace.

[If the applicant be an alien, the sentence "and that he is a citizen of the United States" will be omitted, and in lieu thereof will be substituted "and that he is a citizen of the Republic of Mexico," or "that he is a subject of the King of Italy," or "of the Queen of Great Britain," or as the case may be.

If the applicants claim to be joint inventors, the oath will read "that they verily believe themselves to be the original, first, and joint inventors," etc.

If the inventor be dead, the oath will be taken by the administrator or executor, and will declare his belief that the party named as inventor was the original and first inventor.]

Form 120.—Oath.

BY AN APPLICANT FOR A RE-ISSUE (INVENTOR).

State of —, }
City and County of —, } ss.

A. B., the above-named petitioner, being duly sworn, (or affirmed) deposes and says that he verily believes that, by rea-

son of an insufficient or defective specification, his aforesaid letters patent are inoperative or invalid; that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge and belief; that he is the sole owner of said letters patent; [or, "that E. F. is the sole owner of said letters patent; and that this application is made on the behalf and with the consent of said E. F."] and that he verily believes himself to be the first and original inventor of the improvement set forth and claimed in this amended specification.

A. B.

Sworn to and subscribed before me this 26th day of July, 1879.

C. D.,

[NOTARIAL SEAL.]

Notary Public.

Form 121.—Oath.

BY AN APPLICANT FOR A REISSUE (ASSIGNEE).

[To be used only when the inventor is dead.]

State of —, }
 County of —, } ss.

A. B. and C. D., the above-named petitioners, being duly sworn (or affirmed), depose and say that they verily believe that, by reason of an insufficient specification, the aforesaid letters patent granted to E. F. are inoperative; that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of their knowledge and belief; that the entire title to said letters patent is vested in them; and that they verily believe the said E. F. to be the first and original inventor of the invention set forth and claimed in the foregoing amended specification; and that the said E. F. is now deceased.

A. B.

C. D.

Sworn to and subscribed before me this 14th day of November, 1879.

A. B.,

Justice of the Peace.

Form 122.—Supplemental Oath.

TO ACCOMPANY A NEW OR AN ENLARGED CLAIM.

State of —, }
 County of —, } ss.

A. B., whose application for letters patent for an improvement in seed-drills was filed in the United States Patent-office on or about the fifteenth day of March, 1879, being duly sworn

(or affirmed) deposes and says that, in addition to the claims originally made, he verily believes himself to be the original and first inventor of the improvement as described and claimed in the foregoing amendment, and that he does not know, and does not believe, that the same was ever before known or used.

A. B.

Sworn to and subscribed before me this 11th day of July, 1879.

C. D.,

Justice of the Peace.

Form 123.—Oath as to the Loss of Letters Patent.

State of —, }
County of —, } ss.

A. B., of said county, being duly sworn (or affirmed), doth depose and say that the Letters Patent No. 122,133, granted to him, and bearing date on the ninth day of January, A. D. 1875, have been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find them.

A. B.

Subscribed and sworn to before me this fifth day of October, 18—.

C. D.,

Justice of the Peace.

Form 124.—Oath of Administrator.

AS TO THE LOSS OF LETTERS PATENT.

State of —, }
County of —, } ss.

A. B., of said county, being duly sworn, doth depose and say that he is administrator of the estate of E. F., deceased, late of Boston, in said county; that the Letters Patent No. 122,191, granted to said E. F., and bearing date on the ninth day of January, A. D. 18—, have been lost or destroyed, as he verily believes; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and especially among the papers of the decedent, and that he has not been able to find said letters patent.

A. B.,

Administrator, etc.

Subscribed and sworn to before me this fifth day of October, 18—.

C. D.,

Justice of the Peace.

Form 125.—Oath of Applicant.

FOR REGISTRATION OF A TRADE-MARK.

State of —, }
 County of —. } ss.

A. B., being duly sworn, deposes and says that he is a member of the firm of A. B., C. D. & Co., above named; that he verily believes that said firm has the right to the use of the trade-mark described in the foregoing specification, and that no other person, firm, or corporation has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive; and that the description and fac-simile presented for record are true copies of the trade-mark sought to be protected, and that he resides in —, and all the other members of the firm reside at —, in the State of —; and that they are all domiciled in —, and are citizens of —.

A. B.

Sworn to and subscribed before me this fifteenth day of July, 18—.

E. F.,

Justice of the Peace.

Form 126.—Disclaimer.

To the Commissioner of Patents:

Your petitioner, A. B., of —, County of —, and State of —, represents that he has, by grants duly recorded in the United States Patent-office (liber —, p. —), become the owner of an exclusive right within and for the several States of (Maine, New Hampshire, and Vermont) to make, use, and vend to others to be used, a certain improved mechanical movement, for which letters patent of the United States were granted to C. D. of —, in the County of —, and State of —, April 1, 18—; that he has reason to believe that, through inadvertence, accident, or mistake, the specification and claim of said letters patent are too broad, including that of which said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in said specification which is in the following words, to wit:

“I also claim the sleeves A. B., having each a friction cam, C, and connected, respectively, by means of chains or cords K L and M N, with an oscillatory lever, to operate substantially as herein shown and described.”

Witness: C. D.

A. B.

Form 127.—Caveat.

The petition of A. B., of —, in the County of —, and State of —, respectfully represents:

That he has made certain improvements in velocipedes, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent-office.

A. B.

SPECIFICATION.

The following is a description of my newly-invented velocipede, which is as full, clear, and exact as I am able at this time to give, reference being had to the drawing hereto annexed.

This invention relates to that class of velocipedes in which there are two wheels connected by a beam forming a saddle for the rider, the feet being applied to cranks that revolve the front wheel.

The object of my invention is to render it unnecessary to turn the front wheel so much as heretofore, and at the same time to facilitate the turning of sharp curves. This I accomplish by fitting the front and the hind wheels on vertical pivots, and connecting them by means of a diagonal bar, as shown in the drawing, so that the turning of the front wheel also turns the back wheel with a position at an angle with the beams, thereby enabling it easily to turn a curve.

In the drawing, A is the front wheel, B the hind wheel, and C the standards extending from the axle of the front wheel to the vertical pivot *a* in the beam *b*, and D is the cross-bar upon the end of *a*, by which the steering is done. The hind wheel B is also fitted with jaws *c* and a vertical pivot, *d*.

A. B.

Witnesses: C. D., E. F.

[The form of oath will be substantially that provided for original applications, except that, as a caveat can only be filed by a citizen, or an alien who has resided for one year last past in the United States, and made oath of his intention to become a citizen, the oath should be modified accordingly.]

Form 128.—Assignments.

OF AN UNDIVIDED FRACTIONAL INTEREST IN AN INVENTION BEFORE THE
ISSUE OF LETTERS PATENT.

[BANCROFT'S BLANK, No. 107.]

In consideration of one dollar, to me paid by C. D., of —, I do hereby sell and assign to said C. D. an undivided half of

all my right, title, and interest in and to a certain invention in plows, as fully set forth and described in the specification which I have prepared [if the application has been already made, say "and filed"] preparatory to obtaining letters patent of the United States therefor. And I do hereby authorize and request the Commissioner of Patents to issue the said letters patent jointly to myself and the said C. D., our heirs and assigns.

Witness my hand this sixteenth day of February, 1868.

A. B.

Form 129.—Assignment.

OF THE ENTIRE INTEREST IN LETTERS PATENT.

[BANCROFT'S BLANK, No. 108.]

In consideration of five hundred dollars, to me paid by C. D., of —, I do hereby sell and assign to the said C. D. all my right, title, and interest in and to the letters patent of the United States No. 41,806, for an improvement in locomotive head-lights, granted to me July 30, 18—, the same to be held and enjoyed by the said C. D. to the full end of the term for which said letters patent are granted, as fully and entirely as the same would have been held and enjoyed by me if this assignment and sale had not been made.

Witness my hand this tenth day of June, 18—.

A. B.

Form 130.—Assignment.

OF AN UNDIVIDED INTEREST IN THE LETTERS PATENT AND EXTENSION THEREOF.

[BANCROFT'S BLANK, No. 110.]

In consideration of one thousand dollars, to me paid by C. D., of —, I do hereby sell and assign to the said C. D. one undivided fourth part of all my right, title, and interest in and to the letters patent of the United States, No. 104,850, for an improvement in cooking stoves, granted to me May 16, 1876; the same to be held and enjoyed by the said C. D. to the full end of the term for which said letters patent are granted, and for the term of any extension thereof, as fully and entirely as the same would have been held and enjoyed by me if this assignment and sale had not been made.

Witness my hand this seventh day of January, 1879.

A. B.

Form 131.—Assignment.

OF EXCLUSIVE TERRITORIAL GRANT BY AN ASSIGNEE.

[BANCROFT'S BLANK, No. 109.]

In consideration of one thousand dollars, to me paid by C. D., of —, I do hereby grant and convey to the said C. D. the exclusive right to make, use, and vend within the State of —, and in no other place or places, the improvement in corn-planters for which letters patent of the United States, dated August 15, 1877, were granted to E. F., and by said E. F. assigned to me December 3, 1877, by an assignment duly recorded in liber X¹, p. 416, of the records of the Patent-office, the same to be held and enjoyed by the said C. D. as fully and entirely as the same would have been held and enjoyed by me if this grant had not been made.

Witness my hand this nineteenth day of March, 1878.

A. B.

Form 132.—License—Shop-right.

In consideration of fifty dollars, to be paid by the firm of S. J. & Co., of —, I do hereby license and empower the said S. J. & Co. to manufacture, at a single foundry and machine shop in said —, and in no other place or places, the improvement in cotton-seed planters for which letters patent of the United States, No. 171,846, were granted to me November 13, 1878, and to sell the machines so manufactured throughout the United States, to the full end of the term for which said letters patent are granted.

Witness my hand this twenty-second day of April, 1879.

A. B.

Form 133.—License—Not Exclusive—With Royalty.

[BANCROFT'S BLANK, No. 112½.]

This agreement, made this twelfth day of September, 1878, between A. B., party of the first part, and C. D. & Co., party of the second part, witnesseth: That, whereas, letters patent of the United States for an improvement in horse-rakes were granted to the party of the first part, dated October 4, 1877; and whereas, the party of the second part is desirous of manufacturing horse-rakes containing said patented improvement; now, therefore, the parties have agreed as follows:

1. The party of the first part hereby licenses and empowers the party of the second part to manufacture, subject to the

conditions hereinafter named, at their factory in —, and in no other place or places, to the end of the term for which said letters patent were granted, horse-rakes containing the patented improvements, and to sell the same within the United States.

2. The party of the second part agrees to make full and true returns to the party of the first part, under oath, upon the first days of July and January in each year, of all horse-rakes containing the patented improvements manufactured by them.

3. The party of the second part agrees to pay to the party of the first part five dollars as a license fee upon every horse-rake manufactured by said party of the second part containing the patented improvements; provided, that if the said fee be paid upon the days provided herein for semi-annual returns, or within ten days thereafter, a discount of fifty per cent. shall be made from said fee for prompt payment.

4. Upon a failure of the party of the second part to make returns or to make payment of license fees as herein provided, for thirty days after the days herein named, the party of the first part may terminate this license by serving a written notice upon the party of the second part, but the party of the second part shall not thereby be discharged from any liability to the party of the first part for any license fees due at the time of the service of said notice.

In witness whereof, the parties above named (the said Union-town Agricultural Works, by its president,) have hereunto set their hands the day and year first above written.

A. B.

C. D. & CO.

Form 134.—Transfer of a Trade-mark.

[BANCROFT'S BLANK, No. 112.]

We, A. B. and C. D., of —, partners under the firm name of B. & D., in consideration of five hundred dollars to us paid by E. F., of the same place, do hereby sell, assign, and transfer to the said E. F. and his assigns, the exclusive right to use, in the manufacture and sale of stoves, a certain trade-mark for stoves deposited by us in the United States Patent-office, and recorded therein July 15, 1879; the same to be held, enjoyed, and used by the said E. F. as fully and entirely as the same would have been held and enjoyed by us if this grant had not been made.

Witness our hands this twentieth day of July, 1879.

A. B.

C. D.

REGISTRATION OF PRINTS AND LABELS.

By an Act of Congress approved June 18, 1874, it is provided that certain prints and labels may be registered in the Patent-office.

SEC. 3. That in the construction of this Act the words "engraving," "cut," and "print" shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent-office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print, or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record under the seal of the Commissioner of Patents, to the party entering the same.

SEC. 5. That this Act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

Approved, June 18, 1874.

By the word "print," as used in the said Act, is meant any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, to denote the name of the manufacturer, or place of manufacture, style of goods, or other matter.

By the word "label," as therein used, is meant a slip or piece of paper, or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, and bearing an inscription (not a trade-mark), as, for example, the name of the manufacturer or the place of manufacture, the quality of goods, directions for use, etc.

By the words "articles of manufacture," to which such print or label is applicable by said act, are meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belong to an article of commerce, and be as above defined; nor can the same be registered as such print or label when it amounts in law, to a technical trade-mark.

To entitle the owner of any such print or label to register the same in the Patent-office, it is necessary that five copies

of the same be filed, one of which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

Form 135—Application for Registration.

FOR AN INDIVIDUAL.

To the Commissioner of Patents:

The undersigned, John Fisher, of the city of Brooklyn, County of Alameda, and State of California, and a citizen of the United States [or resident therein, as the case may be], hereby furnishes five copies of a print [or "label," as the case may be], of which he is the sole proprietor.

The said print [or "label"] consists of the words and figures as follows, to wit: [Description.]

And he hereby requests that the said print be registered in the Patent-office, in accordance with the Act of Congress to that effect, approved June 18, 1874.

Brooklyn, Cal., August 1, 1879.

_____,
Proprietor.

Form 136—For a Corporation.

The applicant, a corporation created by authority of the laws of the State of _____ [as the case may be], and doing business in said State, hereby furnishes five copies of a label [or "print," as the case may be], of which it is the sole proprietor.

The said label consists of the words and figures as follows, to wit: [Description.]

And it is hereby requested that the said label be registered in the Patent-office, in accordance with the Act of Congress to that effect, approved June 18, 1874.

Witness the seal of the said corporation at _____, _____, 1879.

[SEAL.]

_____,
President [or other officer].

The certificate of such registration will continue in force for twenty-eight years.

The fee for registration of a print or label is six dollars, to be paid in the same manner as fees for patents.

The benefits of this Act seem to be confined to citizens, or residents, of the United States.

Directions for Securing Copyrights under the Revised Act of Congress, which took effect August 1, 1874.

1. A printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which copyright is desired, must be sent by mail or otherwise, prepaid, addressed "Librarian of Congress, Washington, D. C." This must be done before publication of the book or other article.

2. A fee of fifty cents, for recording the title of each book or other article, must be inclosed with the title as above, and fifty cents in addition (or one dollar in all) for each certificate of copyright under seal of the Librarian of Congress, which will be transmitted by return mail.

3. Within ten days after publication of each book or other article, two complete copies of the best edition issued must be sent, to perfect the copyright, with the address "Librarian of Congress, Washington, D. C." It is optional with those sending books and other articles to perfect copyright, to send them by mail or express; but, in either case, the charges are to be prepaid by the senders. Without the deposit of copies above required the copyright is void, and a penalty of twenty-five dollars is incurred. No copy is required to be deposited elsewhere.

4. No copyright is valid unless notice is given by inserting in every copy published, on the title-page or the page following, if it be a book; or, if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, cromos, statue, statuary, or model or design intended to be perfected as a work of the fine arts, by inscribing upon some portion thereof, or on the substance on which the same is mounted, the following words, viz: "*Entered according to act of Congress, in the year —, by —, in the office of the Librarian of Congress, at Washington;*" or, at the option of the person entering the copyright, the words: "*Copyright, 18—, by —.*"

The law imposes a penalty of one hundred dollars upon any person who has not obtained copyright who shall insert the notice "*Entered according to Act of Congress,*" or "*Copyright,*" etc., or words of the same import, in or upon any book or other article.

5. Any author may reserve the right to translate or to dramatize his own work. In this case, notice should be given by printing the words "*Right of translation reserved,*" or "*All rights reserved,*" below the notice of copyright entry, and notifying the Librarian of Congress of such reservation, to be entered upon the record.

6. Each copyright secures the exclusive right of publishing the book or article copyrighted for the term of twenty-eight years. Six months before the end of that time, the author or designer, or his widow or children, may secure a renewal for the further term of fourteen years, making forty-two years in all. Applications for renewal must be accompanied by explicit statement of ownership, in the case of the author, or of relationship, in the case of his heirs, and must state definitely the date and place of entry of the original copyright.

7. The time within which any work copyrighted may be issued from the press is not limited by any law or regulation, but depends upon the discretion of the proprietor. A copyright may be secured for a projected work as well as for a completed one.

8. Any copyright is assignable in law by any instrument of writing, but such assignment must be recorded in the office of the Librarian of Congress within sixty days from its date. The fee for this record and certificate is one dollar, and for a certified copy of any record of assignment one dollar.

9. A copy of the record (or duplicate certificate) of any copyright entry will be furnished, under seal, at the rate of fifty cents each.

10. In the case of books published in more than one volume, or of periodicals published in numbers, or of engravings, photographs, or other articles published with variations, a copyright is to be taken out for each volume or part of a book, or number of a periodical, or variety, as to size, title, or inscription, of any other article.

11. To secure a copyright for a painting, statue, or model or design intended to be perfected as a work of the fine arts, so as to prevent infringement by copying, engraving, or vending such design, a definite description must accompany the application for copyright, and a photograph of the same, at least as large as "cabinet size," must be mailed to the Librarian of Congress within ten days from the completion of the work.

12. Copyrights cannot be granted upon Trade-marks, nor upon Labels intended to be used with any article of manufacture. If protection for such prints or labels is desired, application must be made to the Patent-office, where they are registered at a fee of six dollars for labels and twenty-five dollars for trade-marks.

13. Every applicant for a copyright must state distinctly the name and residence of the claimant, and whether the right is claimed as author, designer, or proprietor. No affidavit or formal application is required.

CHAPTER XII.

NATURALIZATION, AND FURTHER CIVIL AND CRIMINAL FORMS.

In order for a free white person, born in a foreign country, to become a citizen of the United States, it is necessary that he should make a declaration under oath, at least two years before his admission, of his intention to become a citizen, and must renounce his allegiance to his own sovereign. This declaration must be made before—

First. Any State Court, being a Court of Record, and having a seal and Clerk and common-law jurisdiction.

Second. Before a Circuit Court of the United States.

Third. Before a District Court of the United States.

Fourth. Before a Clerk of either of these Courts.

After he has been a resident of the United States for five years, and has made his declaration of intentions at least two years before, he may then be admitted to the rights of citizenship. In order for this he must prove, by the oath of two citizens of the United States, that he has been a resident of the United States for five years and one year within the State where the Court is held.

He must also take an oath to support the Constitution of the United States, and on oath to renounce and abjure his native allegiance.

If he have been a minor, and shall have resided in the United States for three years next before his attaining his majority, he may be admitted without such declaration, on proving by two witnesses that he has resided five years in the United States, three years as a minor and two since he became of age, making the declaration of his intentions at the time of his admission, and declaring on oath and proving to the satisfaction of the Court that for three years next preceding it had been his *bona fide* intention to become a citizen.

The alien's country must, at the time of his admission, be at peace with the United States.

If an alien die after having made his declaration of in-

tention and before his admission, his widow and children are citizens.

The minor children of any one duly naturalized, if dwelling in the United States, are citizens.

Form 196.—Declaration of Intention.

I, John Doe, do declare on oath that it is *bona fide* my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate, State and sovereignty whatever, and particularly to [the Queen of Great Britain and Ireland], of whom I was a subject.

JOHN DOE.

Sworn in open Court, this — day of —, 18—.

CLERK'S CERTIFICATE.

I, John Smith, Clerk of the District Court of the United States, do certify that the above is a true copy of the original declaration of intention of John Doe to become a citizen of the United States, remaining of record in my office.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said Court, this — day of —, one thousand eight hundred and —.

JOHN SMITH, Clerk.

[SEAL OF THE COURT.]

Form 197.—Affidavit of Minor.

In the matter of John Doe, }
on his Naturalization. }

John Doe, being duly sworn, says that for the continued term of five years last past he has resided within the United States, and that for one year last past he has resided within the State of —; and at the time he so arrived in the United States he had not attained his eighteenth year; that it is *bona fide* his intention, and has been for the last three years, to become a citizen of the United States, and to renounce forever all allegiance and fidelity to all and every foreign prince, potentate, State and sovereignty whatever, and particularly to [Victoria the Queen of Great Britain and Ireland], of whom he was a subject.

JOHN DOE.

Sworn in open Court, the — day of —, 18—.

JOHN SMITH, Clerk.

Form 198.—Affidavit to Prove Intention.

State of —, }
 County of —, } to wit:

John Jones, being duly sworn, says that he is a citizen of the United States; that he is well acquainted with the above-named John Doe, and that the said John Doe has resided within the Territory of the United States for five years last past, and for one year last past in the State of —; and that during such period he has behaved himself as a man of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the same; that for three years last past it has been *bona fide* the intention of the said John Doe to become a citizen of the United States, and that at the time the said John Doe arrived in the United States he had not attained his eighteenth year.

JOHN JONES.

Sworn to in open Court, this — day of —, 18—.

JOHN SMITH, Clerk.

Form 199.—Proof of Residence.

State of —, }
 County of —, } to wit:

Peter Smith and John Jones, being duly sworn, say that they are both of them citizens of the United States of America; that they know John Doe, and that he has resided within the Territory and jurisdiction of the United States for five years last past; that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

PETER SMITH.

JOHN JONES.

Sworn in open Court, this — day of —, 18—, before me,

—, Judge.

Form 200.—Oath.

I, John Doe, do solemnly swear that I will support the Constitution of the United States of America, and that I do absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State or sovereignty whatever, and particularly to [Victoria, Queen of the United

Kingdom of Great Britain and Ireland], of whom I was a subject. [Any title or order of nobility must also be renounced.]

JOHN DOE

Sworn in open Court, the — day of —, 18—, before me,
GEORGE GOODMAN, Judge.

Form 201.—Certificate of Citizenship.

[BANCROFT'S BLANK, No. 264.]

United States of America, }
State of —, } ss.
County of —. }

Be it remembered that on the — day of —, in the year of our Lord, one thousand eight hundred and —, John Doe appeared in the — Court (the said Court being a Court of Record, having common-law jurisdiction and a Clerk and seal), and applied to the said Court to be admitted to become a citizen of the United States of America, pursuant to the provisions of the several Acts of the Congress of the United States of America, for that purpose made and provided; and the said applicant having thereupon produced to the Court such evidence, made such declaration and renunciation, and taken such oaths as are by the said Acts required; thereupon, it was ordered by the said Court that the said applicant be admitted, and he was accordingly admitted by the said Court to be a citizen of the United States of America.

In testimony whereof, the seal of said Court is hereunto affixed, this — day of —, one thousand eight hundred and —, and in the — year of our independence.

[SEAL OF THE COURT.]

Per curiam.

JOHN SMITH, Clerk.

WILLS.

As people sometimes desire to dispose of their property by will when circumstances might prevent their calling upon an attorney to draw such a document, for convenience in such cases short forms of wills are here presented; premising that wills should be drawn with great care and should distinctly state the exact intentions of the testator respecting the disposition of the property bequeathed; be-

cause if it be shown to the Court that the testator was of sound mind, and acted voluntarily when the will was made, the intention of the testator, as shown by the will, will be carried into effect by the Court; unless the testator failed to give anything whatever to some legal heir, in which case, the will might be set aside.

The testator must be of sound mind at the time of making the will, and must act freely and voluntarily and with the intention of making the will. He should sign it in the presence of two or more witnesses, who should also sign it, at the testator's request and in his presence, and add to their signatures the places of their residence respectively.

Any person, having made a will, can revoke it at any time thereafter; or can add to or change it, by a subsequent will, known in law as a codicil.

Form 202.—Short Form of Will.

In the name of God. Amen.

I, John Doe, of the town of Santa Rosa, in the county of Sonoma, and State of California, being of sound mind and memory, and considering the uncertainty of life, do hereby make, ordain, publish, and declare this to be my last will and testament: That is to say; First. After all my lawful debts are paid and discharged, and the expenses of my funeral shall have been paid, the residue of my estate I give, bequeath, and dispose of as follows, to wit: [To my beloved wife, the land and appurtenances situated thereon, known and described as —

[Here describe the property by name, or by metes and bounds.]

together with our present residence in the town of Santa Rosa, and one hundred shares of the capital stock of the Bank of California, now possessed by me, during the term of her natural life, and after her death, to be equally divided among my heirs; To my son George, one hundred other shares of the capital stock of the Bank of California possessed by me, and the farm known as the "Dairy Farm," on Petaluma creek, in this county; To my daughter Mary, one hundred shares of the capital stock of the Nevada Bank, of San Francisco, possessed by me, together with one hundred shares of the capital stock of the Standard Mining Company, the said mine being located at Bodie, California; and all the rest, residue and remainder of

my real and personal estate, I give and bequeath to my other children and their heirs, who may be living at the time of my decease, to be divided equally between them share and share alike.]

I do hereby make, constitute, and appoint my said son George, and my beloved friends C. B. Langdon and William Seawell, to be executors of this my last will and testament, hereby revoking all former wills by me made.

In witness whereof I have hereunto subscribed my name, and affixed my seal, this seventh day of January, A. D. 1880.

JOHN DOE. [SEAL.]

The above instrument was subscribed by the above-named John Doe in our presence, and acknowledged by him to each of us; and at the same time he published and declared the said instrument so subscribed, to be his last will and testament, and we, at the testator's request and in his presence, have signed our names as witnesses thereto, and written opposite our names our respective places of residence.

JOHN JAMES, Petaluma, Sonoma County, Cal.

IRA JONES, Healdsburg, Sonoma County, Cal.

JAMES FREE, Santa Rosa, Sonoma County, Cal.

Form 203.—Codicil to a Will.

Whereas I, John Doe, of the town of Santa Rosa, County of Sonoma, and State of California, did make my last will and testament in writing bearing date the seventh day of January, A. D. 1880, in and by which I have given and bequeathed to my son George one hundred shares of the capital stock of the Bank of California possessed by me, together with the farm known as the "Dairy Farm," on Petaluma Creek, in this county; and to my daughter Mary one hundred shares of the capital stock of the Nevada Bank of San Francisco possessed by me, together with one hundred shares of the capital stock of the Standard Mining Company, the said mine being located at Bodie, Cal.: Now, therefore, I do, by this my writing, which I hereby declare to be a codicil to my last will and testament, and to be taken as a part thereof, order and declare that my will is, that after the said legacy to my beloved wife, all the residue of my real and personal estate shall be divided equally between my several children, share and share alike.

In witness whereof, etc.

[The codicil should be executed with the same formalities as to witnesses, their residences, etc., as the original will.]

Under the California Civil Code, an "olographic" will may be made by any person capable of disposing of property, which will have a construction as if made in the most solemn form. The Code says: "An olographic will is one that is entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this State, and need not be witnessed."

Form 204.—Declaration of Homestead.

[BANCROFT'S BLANKS, NOS. 396 and 397.]

Know all men by these presents, that I, S. W. Powell, of the town of Bodie, County of Mono, and State of California, am married and the head of a family; that I do hereby certify and declare that I now reside upon and claim as a homestead for myself and my said family, under and by virtue of the laws of said State in such case made and provided, the following described lot, piece, and parcel of land, situated in said town of Bodie, to wit: Commencing at—

[Here set out a careful description of the property claimed as a homestead.] together with, all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining; and that I estimate the cash value of said land and appurtenances at five hundred dollars.

In witness whereof, I have hereunto set my hand and seal this eleventh day of November, A. D. 1879.

S. W. POWELL.

The declaration should be acknowledged before some officer authorized to take the acknowledgment of deeds, and recorded in the office of the County Recorder of the county in which the homestead is situated.

Form 205.—Abandonment of Homestead.

Know all men by these presents, that we, John Jones and Sarah A. Jones, his wife, of the town of Chico, County of Butte, and State of California, do hereby abandon, release, and discharge from any and all claim by us as a homestead, the lot, piece, and parcel of land situated in said town of Chico and bounded and described as follows, to wit: Commencing at—

[Describe the land as it was described in the declaration of homestead, or correctly.]

together with all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in any wise appertaining.

In witness whereof, we have hereunto set our hands and seals this — day of —, A. D. 188—.

JOHN JONES. [SEAL.]

SARAH A. JONES. [SEAL.]

The abandonment must be acknowledged and should be recorded as the declaration.

The acknowledgment may be substantially as follows:

Form 206.

State of California, }
County of Butte. } ss.

On this — day of —, A. D. 188—, before me, a — in and for said County [if a Notary Public, duly commissioned and sworn], personally appeared the above-named John Jones and Sarah A. Jones, his wife, to me known to be the persons named in and who executed the above [or annexed] instrument as parties thereto, and they severally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned; and the said Sarah A. Jones, after being by me made acquainted with the contents of said instrument, upon an examination had separate and apart, from and without the hearing of her said husband, acknowledged to me that she executed the same freely and voluntarily, and without fear or compulsion or undue influence of her husband, and that she does not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand [and affixed my official seal] the day and year in this certificate above written.

[L. S.]

A. K. STEARNS,
Notary Public.

The following are statutory forms of Acknowledgment provided by the Civil Code of California, and must be substantially complied with:

Form 207.

State of California, }
County of —. } ss.

On this — day of —, in the year —, before me [here insert the name and quality of the office] personally appeared

—, known to me [or proved to me on the oath of —] to be the person whose name is subscribed to the within instrument, and acknowledged to me that he [or they] executed the same.

Form 208.—Acknowledgment by a Corporation.

State of California, }
County of —. } ss.

On this — day of —, in the year —, before me [here insert the name and quality of the officer] personally appeared —, known to me [or proved to me on the oath of —] to be the President [or the Secretary] of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

Form 209.—By a Married Woman.

State of California, }
County of —. } ss.

On this — day of —, in the year — before me [here insert the name and quality of the officers] personally appeared —, known to me [or proved to me on the oath of —] to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

Form 210.—By an Attorney in Fact.

State of California, }
County of —. } ss.

On this — day of —, in the year —, before me [here insert the name and quality of the officer] personally appeared —, known to me [or proved to me on the oath of —] to be the person whose name is subscribed to the within instrument as the attorney in fact of —, and acknowledged to me that he subscribed the name of — thereto as principal, and his own name as attorney in fact.

Officers taking and certifying acknowledgments or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

The certificate of proof of acknowledgment, if made before a Justice of the Peace, *when used in any county other than that in which he resides*, must be accompanied by a certificate under the hand and seal of the Clerk of the County in which the Justice resides, setting forth that such Justice, at the time of taking such proof or acknowledgment, was authorized to take the same, and that the Clerk is acquainted with his handwriting, and believes that the signature to the original certificate is genuine.

Form 212.—Judgment by Default.

[BANCROFT'S BLANK, No. 564.]

[Title of the Court.]

John Doe,	}
Plaintiff.	
vs.	
Richard Roe,	}
Defendant.	

In this action, the defendant, Richard Roe, having been regularly served with process, and having failed to appear and answer to plaintiff's complaint filed herein, the legal time for answering having expired and no answer or demurrer having been filed, the default of the said Richard Roe, defendant, having been duly entered according to law, upon the application of said plaintiff [to the clerk], judgment is hereby entered against said defendant, in pursuance to the prayer of said complaint. Wherefore, by virtue of the law and by reason of the premises aforesaid, it is ordered, adjudged, and decreed, that John Doe, the said plaintiff, do have and recover from the said defendant, Richard Roe, the sum of — dollars, etc., with interest thereon at the rate of — per cent. per —^a, from the date hereof until paid; together with said plaintiff's costs and disbursements incurred in this action, amounting to the sum of — dollars [in gold coin].

Judgment rendered this — day of —, A. D. 18—.

Form 213.—Judgment by the Court, without Jury.

[Title of Court.]

John Doe,	}
Plaintiff.	
vs.	
Richard Roe,	}
Defendant.	

This cause came on regularly for trial on the — day of —, A. D. 18—, —, Esq., appearing as counsel for the plaintiff, and —, Esq., for the defendant.

A trial by jury having been expressly waived by the respective parties, the cause was tried before the Court sitting without a jury; whereupon witnesses on the part of plaintiff and defendant were duly sworn and examined, — and the evidence being closed, the cause was submitted to the Court for consideration and decision; and after due deliberation thereon, the Court orders that — wherefore by reason of the law and the premises aforesaid, it is ordered, adjudged, and decreed by the Court, that John Doe, the plaintiff, do have and recover of and from Richard Roe, the defendant, —, together with said plaintiff's costs and disbursements incurred in this action, amounting to the sum of — dollars, etc.

—, Judge.

Form 214.

Judgment recorded —, A. D. 188—.

Clerk's office of the — Court of the State of —, in and for the county of —.

I, the undersigned, Clerk of said Court, do hereby certify the foregoing to be a true copy of the judgment entered in the above-entitled action.

Attest my hand and the seal of said Court, this — day of —, A. D. 188—.

—, Clerk.

[L. S.]

By —, Deputy Clerk.

Form 215.—Judgment on Verdict in Open Court.

[BANCROFT'S BLANK, No. 567.]

[Title of Court.]

John Doe,	}
Plaintiff.	
vs.	
Richard Roe,	}
Defendant.	

This cause came on regularly for trial. The said parties

appeared by their respective attorneys, —, Esq., counsel for plaintiff, and —, Esq., for the defendant.

A jury of [twelve] persons was regularly impaneled and sworn to try said action. Witnesses on the part of plaintiff and defendant were sworn and examined. After hearing the evidence, the arguments of counsel, and instructions of the Court, the jury retired to consider of their verdict, and subsequently returned into Court, and being called, answered to their names, and say, "We, the jury in this cause, find a verdict for the—

[Set out the words of the verdict.]

Wherefore, by virtue of the law, and by reason of the premises aforesaid, it is ordered, adjudged, and decreed that said — have and recover from said —, together with his costs and disbursements incurred in this action, amounting to the sum of — dollars. Judgment recorded the — day of —, A. D. 188—, on page — of Book of Judgments.

Clerk's office of the — Court, etc.

[And as follows in Form 214.]

Form 216.—Decree of Foreclosure and Sale in Open Court.

[BANCROFT'S BLANK, No. 578.]

[Title of Court.]

John Doe,	} Plaintiff.
vs.	
R. Doe,	
	Defendant.

This cause coming on regularly to be heard this — day of —, A. D. 188—, upon the complaint filed herein on the — day of —, 188—, and upon due proof of the filing of notice of the pendency of this action, containing the names of the parties to, and the objects of, the action, and a description of the property affected thereby, upon the — day of —, A. D. 188— [the time of filing said complaint], in the office of the County Recorder of the county of —, where said property is situated, and recording the same in said Recorder's office, and upon the submission of the promissory note and mortgage described in the complaint to the Court for examination, and the Court having heard the proofs necessary to enable it to render judgment herein; and it duly appearing to the Court from said promissory note and mortgage, and from the testimony of —,

who was sworn and examined as a witness in said action, that there is now due to the plaintiff from the said defendant R. Roe, for principal and interest upon the debt and mortgage mentioned, and set forth in the complaint, the sum of — dollars and — cents; which said sum is to draw and bear interest at the rate of — per cent. per annum from the date hereof; and it appearing that all the allegations contained in the said plaintiff's complaint are true:

Now, on motion of —, Esq., counsel for the plaintiff, John Doe, it is ordered, adjudged, and decreed by the Court, that all and singular the mortgaged and incumbered property mentioned in the said complaint and hereinafter described, or so much thereof as may be necessary to raise the amount so found to be due to the plaintiff for the principal and interest on said debt and mortgage, as above stated, and costs of suit amounting to, and taxed at, — dollars and expenses of sale, and counsel fee allowed for — dollars, be sold at public auction by, or under the direction of, the Sheriff of the County of —, where the said mortgaged premises are situated; that said sale be made in said county; that the said Sheriff give public notice of the time and place of such sale according to the course and practice of the Court and the law relative to sales of real estate under execution; and that the plaintiff, or any of the parties to this suit, may become the purchaser at such sale; that the said Sheriff, out of the proceeds of said sale, retain his fees, disbursements, and commissions on said sale, and pay to the plaintiff, or his attorney, out of the proceeds, the plaintiff's costs in this suit, so taxed at — dollars aforesaid, and the said sum of — dollars, fixed by said mortgage and allowed by the Court as counsel fees of foreclosure, with interest thereon from this date at the rate of — per cent. per annum, and also the amount so found due, as aforesaid, to wit: the said sum of — dollars, together with interest thereon at the rate of — per cent. per annum from the date of this decree, or so much thereof as the said proceeds of sale will pay of the same [and that the said Sheriff take receipts for the amounts so paid and return the same to this Court, with his report of sale, and that he bring the surplus money arising from said sale, if any there be, into Court within five days after such surplus shall have been received, and shall be ascertained, to abide the further order of this Court]; that the defendant, and all persons claiming, or to claim, from or under him, and all persons having liens subsequent to said mortgage, and all persons claiming

under them, and all persons claiming to have acquired any estate or interest in said premises subsequent to the filing of said notice of the pendency of this action with the Recorder as aforesaid, be forever barred and foreclosed of and from all equity of redemption and claim of, in, and to, said mortgaged premises, and every part and parcel thereof, from and after the delivery of the said Sheriff's deed.

And it is further adjudged and decreed, that the purchaser or purchasers of said mortgaged premises at such sale be let into possession thereof on production of the Sheriff's deed for such premises, or any part thereof.

And it is further adjudged and decreed, that, if the money arising from the said sale shall be insufficient to pay the amount so found due to the plaintiff, as above stated, with the interest, and costs, and expenses of sale, as above stated, the Sheriff specify the amount of such deficiency and balance due to the plaintiff in his return of said sale, and that, on the coming in of said return, a judgment of this Court shall be docketed for the balance against the defendant, R. Roe, and that the defendant, R. Roe, who is personally liable for the payment of the debt secured by said mortgage, pay to said plaintiff, John Doe, the amount of such deficiency and judgment, with interest thereon at the rate of — per cent. per annum from the date of said last mentioned return and judgment, and that the plaintiff have execution therefor.

And it is further ordered, adjudged and decreed, that the said sale be made for [gold coin] of the United States, and that the amount found due to the plaintiff at the time of such sale as above stated, be paid to said plaintiff in like money, and if there be a deficiency, the judgment therefor be for the amount thereof in like [gold coin.]

The description and particular boundaries of the property authorized to be sold under and by virtue of this decree, so far as the same can be ascertained from the mortgage referred to, or from the complaint filed in this action, are as follows, to wit:

[Here describe the property as in the complaint and mortgage.]

Done in open Court this — day of —, A. D. 188—.

_____, Judge.

[Office of the Clerk of etc., as in Form 214.]

Form 217.—Undertaking on Injunction.

[BANCROFT'S BLANK, No. 562.]

[Title of Court.]

Ira Fenn,	}
Plaintiff,	
vs.	
John Merrymann,	}
Defendant.	

Whereas the above-named plaintiff has commenced an action in the — Court of —, in and for the County of —, against the above-named defendant, and has also commenced proceedings in said action against the said defendant for a writ of injunction against said defendant, and whereas the said plaintiff has obtained an order from said Court that upon the plaintiff filing with the Clerk of said Court an undertaking, conditioned according to law, with two or more sufficient sureties in the sum of — dollars, that an injunction issue in said action enjoining and restraining the said defendant from the commission of certain acts, as in the complaint filed in the said action, is more particularly set forth and described; now therefore, we, the undersigned, residents and householders, [or freeholders of the County of —, and State of —,] in consideration of the premises and of the issuing of said injunction, do jointly and severally undertake in the sum of — dollars, and promise to the effect, that in case said injunction issue, the said plaintiff will pay to the said part— enjoined, such damages, not exceeding the said sum of — dollars, as such part— may sustain by reason of the said injunction, if the said — Court finally decide that the said plaintiff was not entitled thereto.

Dated this — day of —, A. D. 188—.

_____. [SEAL.]
 _____. [SEAL.]

Form 218.—Justification to the Above.

State of —,	}	ss.
County of —.		

— and —, the sureties whose names are subscribed to the above undertaking, being severally duly sworn, each for himself says, that he is a resident and householder [or freeholder] within the County of — aforesaid, and that he is worth the sum specified in the above undertaking, as the pen-

alty thereof, over and above all his just debts and legal liabilities and property exempt from execution.

Subscribed and sworn to before me, this

— day of —, A. D. 18—.

— —.

Form 219.—Certificate of Clerk to Official Character and to Signature of Officer.

State of —, }
County of —. } ss.

I, —, Clerk of — County, State of —, and *ex officio* Clerk of the — Court, which is a Court of Record, do hereby certify that —, whose name is subscribed to the annexed — as —, was at the date of the same [and is now] a — in and for said county, duly elected [or commissioned] and qualified, and authorized by law to —, and that full faith and credit are due to all his official acts as such; and I do further certify that I am acquainted with the handwriting and signature of the said —, and that I believe the signature attached to the annexed — is his genuine signature.

In witness whereof, I have hereunto set my hand and affixed the seal of said — Court, at my office, in the County of — aforesaid, this — day of —, A. D. 188—.

[SEAL.]

—, Clerk.

Form 220.—Certificate of Approval.

BY OFFICER AUTHORIZED TO APPROVE OFFICIAL BOND, TO BE INDORSED ON THE BOND.

County of —, ss.

I, —, of said county, do hereby approve of the sufficiency of the within bond and of the sureties thereto; and I hereby certify that —, named within, this day took and subscribed the oath of office as — [“indorsed upon his commission” if a commissioned officer] in the words and figures following, to wit:

[If in Nevada as follows.]

State of Nevada, }
County of —. } ss.

I, —, do solemnly swear [or affirm] that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign; and

that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State Convention or Legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge and purpose, without any mental reservation or evasion whatsoever; and I do further solemnly swear [or affirm] that I have not fought a duel nor sent or accepted a challenge to fight a duel, nor been a second to either party, nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance since the adoption of the Constitution of the State of Nevada; and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel during my continuance in office; and further, that I will, well and faithfully, perform all the duties of the office of —, on which I am about to enter [if an oath], “so help me God [if an affirmation], under the pains and penalties of perjury.

(Signed)

Sworn and subscribed before me, this — day of —, 188—.

OFFICIAL OATH IN CALIFORNIA.

State of California, }
County of —. } ss.

I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of — to the best of my ability.

(Signed)

Sworn and subscribed before me this — day of —, A. D. 188—.

Form 221.—Complaint.

IN CASES OF MISDEMEANOR AND IN CRIMINAL ACTIONS.

[BANCROFT'S BLANK, No. 720.]

[If in California, substantially as follows.]

In Justice's Court of Los Gatos Township, in and for the County
of Santa Clara, and State of California.

The People of the State of Cali-
fornia, }
Plaintiffs. }
vs. }
John Doe, }
Defendant. }

Personally appeared before me, this third day of January,
A. D. 1880, Richard Roe, of Los Gatos Township, in the County

of Santa Clara, who being first duly sworn, complains and says: That one John Doe, of said township and county, on the third day of January, A. D. 1880, at said township, in the County of Santa Clara, one overcoat of the value of thirty dollars, of the goods and chattels of him, the said Richard Roe, the said John Doe did feloniously take, steal and carry away; all of which is contrary to the form of the statute in such case made and provided, and against the peace and dignity of the people of the State of California. Said complainant therefore prays that a warrant may be issued for the arrest of said John Doe, and that he may be dealt with according to law.

RICHARD ROE.

Subscribed and sworn to before me this
third day of January, A. D. 1880.

G. P. TAYLOR,

Justice of the Peace in and for said County.

[If in Nevada, the complaint should be substantially as follows.]

In Justice's Court of Gold Hill Township, of Storey County,
and State of Nevada.

The State of Nevada,	} Plaintiff.
vs.	
Richard Roe,	
Defendant.	}

County of Storey, ss.

S. W. Chubbuck, being first duly sworn, complains, and accuses Richard Roe of [here state the offense, whether a misdemeanor or crime, which in this case we will suppose to have been an "assault and battery"] committed as follows, to wit: The said Richard Roe did, on the third day of January, A. D. 1880*, at the town of Gold Hill, in said County of Storey, with a club, which he, the said Richard Roe, then and there held in his hands, beat, bruise and wound one Mary Roe, the wife of said Richard Roe, upon the head, breast, and person of the said Mary Roe, contrary to the form of the statute and against the peace and dignity of the State of Nevada. Wherefore complainant prays that a warrant may be issued for the arrest of the said Richard Roe, and that he be dealt with according to law.

S. W. CHUBBUCK.

Sworn to and subscribed before me this
third day of January, A. D. 1880.

J. P. FLAMMINGHAM,

Justice of the Peace for said Township.

First. If the complaint be for petit larceny, it should read after the * in the foregoing complaint, "feloniously take, steal, and carry away certain goods and chattels, to wit: [here insert a description of the articles taken] of the value of [less than fifty dollars] — dollars, the property of —, with intent to steal, and to convert the same to his, the said — own use, contrary to the form of the statute," etc.

Second. If the charge be grand larceny of goods of any kind, the value of the property should be stated at a greater sum than fifty dollars [unless it be of amalgam in California; taking any amount of which from sluices, sulphuret machines, rifles, etc., constitutes "grand larceny"].

If the larceny be of live stock the complaint should read, after the * in the foregoing complaint: "willfully and feloniously steal, take, and carry away, lead and drive away certain chattels, to wit:

[Here describe the animals so that they may be identified.]

Of the value of — dollars, being the property of —, with intent to steal the same and convert it [or them] to his own use, contrary to the form of the statute," etc.

If burglary be charged the complaint should read, after the * (unless it be a burglary which could be committed in the day-time): "in the night-time, to wit: between the hours of — o'clock P. M. of the — day of —, and — o'clock A. M. of the — day of —, A. D. 188—, willfully and feloniously break and enter a certain — house of — [the rightful occupant], with intent, then and there, to steal, take, and carry away certain goods and chattels, the property of — [or with intent to commit some other crime], contrary to the form of the statute," etc.

If an assault with intent to commit murder be the charge, the complaint, after the *, should read: "willfully and feloniously and with malice aforethought [shoot], bruise [beat], and wound the complainant [or one —], with intent, then and there, to kill and murder him, the said —, contrary to the form of the statute," etc.

If murder be the charge the complaint should read substantially, after the *: "feloniously and willfully and with malice aforethought, shoot [cut, stab, or whatever means were used, and with a pistol, or other instrument, which he,

the said —, then and there had in his hand, etc.], kill and murder one —, then and there being, with intent, then and there, to kill and murder him, the said —, contrary to the form of the statute," etc.

The foregoing technical words are substantially required in criminal complaints, but—

If the committing magistrate be satisfied, upon the examination, that a defendant has committed a crime, he will hold him, notwithstanding defects in the complaint, until the complaint can be amended or a new one filed; for in criminal as well as in civil actions pleadings in Justices' Courts are not held to such nicety and precision of language as are pleadings in Courts of Record.

Form 222.—Warrant of Arrest.

[BANCROFT'S BLANK, No. 725.]

In Justice's Court of Gold Hill Township, of Storey County,
State of Nevada.

The State of Nevada, to any Sheriff, Constable, Marshal, or Policeman in the County of Storey, Greeting:

A complaint upon oath having been this day laid before me by Alex. G. Cowan, that the crime of grand larceny has been committed, and accusing Robin Hood thereof, you are therefore commanded forthwith to arrest the above-named Robin Hood, and bring him before me forthwith, at my office, in said township, in said County of Storey, or in case of my absence, or inability to act, before the nearest and most accessible Magistrate in this county.

Dated at my office in said township this fifth day of January,
A. D. 1880.

J. P. FLAMMINGHAM,
Justice of the Peace of said Township.

INDORSEMENT OF SERVICE.

I hereby certify that I received the within warrant on the fifth day of January, A. D. 1880, and served the said warrant by arresting the within-named defendant Robin Hood, and bringing him into Court this fifth day of January, 1880.

C. A. WILLIAMSON,
Sheriff of Storey County.
By CHARLES HARPER, Deputy.

The within-named Robin Hood, having been brought before me under this warrant, is committed for examination to the Sheriff of Storey County.

Dated this fifth day of January, 1880.

J. P. FLAMMINGHAM,
Justice of the Peace of said Township.

Form 223.—Commitment on Being Held to Answer.

[BANCROFT'S BLANK, No. 716.]

In the Justice's Court of — Township, in the County of —,
State of California.

The People of the State of California, to the Sheriff of the
County of —.

An order having been this day made by me, that — be held
to answer upon a charge of—

[Here insert the name of the crime charged.]

committed in said county, on or about the — day of —,
188—.

These are therefore to command you, the said Sheriff, to take
and keep the said

[Name of prisoner.]

into your custody, and detain — until — be legally dis-
charged. And I hereby order that the said — be admitted
to bail in the sum of — dollars.

Dated this — day of —, 18—.

_____,
Justice of the Peace in and for said County.

Form 224.—Judgment.

OF FINE AND IMPRISONMENT BY THE COURT.

[BANCROFT'S BLANK, No. 717.]

In the Justice's Court of — Township, in the County of —,
State of California.

The People of the State
of California, } Plaintiffs.
 }
 } va.
_____, } Defendant—.

A complaint under oath having been filed in this Court on
the — day of —, A. D. 18—, charging said defendant, —

of a certain public offense, to wit: —, committed on the — day of —, A. D. 18—, and a warrant of arrest having been duly issued on said — day of —, A. D. 18—, for the arrest of said defendant, and said defendant — having been duly arrested and thereafter, on the — day of —, A. D. 18—, tried before this Court with [or without] a jury, and by the — found guilty as charged in the complaint; and all and singular the law and the premises being by the Court here understood and fully considered, and no sufficient cause appearing to the Court why judgment should not be pronounced against said defendant —:

Wherefore, it is by the Court here ordered and adjudged that for said offense you, the said —, do pay a fine of — dollars, and be imprisoned in the County Jail of said — County, until said fine shall be paid not exceeding — days. Done in open Court this — day of —, A. D. 18—.

_____,
Justice of the Peace.

[It must be remembered that the style of process in Nevada is "The State of Nevada."]

Office of the Justice of the Peace, — Township, County of —, ss.

I, —, Justice of the Peace of the County of —, do hereby certify that the foregoing is a full, true and correct copy of the judgment duly made and entered on the minutes of the said Justice's Court in the above-entitled action on the — day of —, A. D. 18—.

Attest my hand, at the Township of —, in the County of —, this — day of —, A. D. 18—.

_____,
Justice of the Peace in and for said County of —.

To the Sheriff of — County:

You are hereby notified that the foregoing is a certified copy of the judgment entered in the minutes of said Court in the above-entitled cause, which is your warrant for the execution of said judgment.

_____,
Justice of the Peace.

[BANCROFT'S BLANK, No. 718.]

The State of Nevada. }
vs. }
John Doe. }

Whereas, John Doe, having been duly convicted in the Justice's Court of Reno Township, of the County of Washoe, State of Nevada, of the crime of assault and battery as charged in the complaint, upon oath, in the above-entitled criminal action, and by said Court sentenced and adjudged, as a punishment for said crime, to pay a fine of three hundred dollars, and in default of payment of said fine to be imprisoned in the County Jail of the County of Washoe, State of Nevada, for the period of one hundred and fifty days, or until said fine shall be paid at the rate of two dollars per day for each day of such imprisonment, as appears by the following full, true and correct copy of the judgment rendered by said Court and entered in the minutes and docket of said Court in the above-entitled criminal action.

State of Nevada, County of Washoe, Court-room of said Court, ss.
18—

The State of Nevada.
vs.
John Doe,
Convicted of Assault and Battery.

In this action the defendant personally appears for sentence. The Court renders its judgment: That whereas the said John Doe having been duly convicted in this Court of the crime of assault and battery; It is ordered and adjudged, as a punishment therefor, that the said John Doe pay a fine of three hundred dollars, and in default of payment thereof, that said John Doe be imprisoned in the County Jail of the County of Washoe, State of Nevada, for the period of one hundred and

fifty days, or until said fine shall be paid at the rate of two dollars per day for each day of such imprisonment; and whereas said fine has not been paid, these are, therefore, in the name of the State of Nevada, to command you, the said Sheriff of the County of Washoe, forthwith to take, arrest, and safely keep and imprison the said John Doe in the County Jail of the said County of Washoe, State of Nevada, for the period of one hundred and fifty days, or until said fine be paid or satisfied; and these presents shall be your authority for the same.

Witness my hand this fifth day of January, 1880.

WM. H. YOUNG,

Justice of the Peace of the Township of Reno, County of Washoe.

State of Nevada, County of Washoe, ss.

I hereby certify that the within and foregoing is a true copy of the judgment entered in the within entitled case.

WM. H. YOUNG,

Justice of the Peace, Township of Reno, County of Washoe.

[The style of all legal process in California is, "The People of the State of California."]

CHAPTER XIII.

MISCELLANEOUS FORMS.

The writ of Habeas Corpus has for many generations been considered one of the most efficient safeguards to human liberty, and, ever since the great Magna Charta was forced by a determined people from their unwilling king, has been jealously guarded by Englishmen, and by all people where the common law prevails. Where it exists no man can long be restrained of his liberty, except by due process of law and the judgment of Courts legally constituted.

Form 226.—Petition for a Writ of Habeas Corpus.

[BANCROFT'S BLANK, No. 256.]

In the District Court of the — Judicial District [or in the Superior Court] of the State of —, in and for the County of —.

In the matter of the application of John Doe for a writ of Habeas Corpus. To the Hon. —, — Judge of the District [or Superior] Court of the — Judicial District of the State of —, in and for the County of —.

The petition of John Doe respectfully shows: That your petitioner is unlawfully imprisoned, detained, confined, and restrained of his liberty, by one —, at —, in the County of —, State of —; That the said imprisonment, detention, confinement and restraint, are illegal; and that the illegality thereof consists in this, to wit:

[Here state the legal reasons why the petitioner should not be confined, or restrained of liberty.]

Wherefore your petitioner prays that a writ of Habeas Corpus may be granted, directed to the said —, commanding him to have the body of your petitioner before your Honor, at a time and place therein to be specified, to do and receive what shall then and there be considered by your Honor concerning your petitioner, together with the time and cause of his detention, and the said writ, and that your petitioner may be restored to liberty.

JOHN DOE

Dated —, —.

State of —, }
County of —. } ss.

John Doe, being duly sworn, says that he is the petitioner named in the foregoing petition; that he has heard the said petition read and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on his information and belief, and as to those matters, that he believes it to be true.

JOHN DOE.

Subscribed and sworn to before me, this —
day of —, A. D. 188—.

Notary Public (or any one who can legally administer an oath).

Any person can procure the issuance of a writ of habeas corpus in behalf of any other person who is illegally restrained of liberty.

Marriage is a civil contract, but many unwise parties to the contract, soon after making it, forget or neglect the civilities which led them to form the alliance, and commit some act which the laws make a legal cause for annulling the contract; and, as divorces in these days are quite ordinary occurrences, after stating that the statutes enumerate many causes for divorce, among which are impotency, adultery unforgiven, willful desertion, willful neglect, habitual drunkenness, extreme cruelty, and conviction of a felony; and, for the purpose of illustrating to the non-professional reader the manner of proceeding in such cases, omitting the service of summons, etc., we will suppose that some man has forgotten his duty to his truest friend and abused her, and she brings her bill for a divorce.

Form 227.—Bill for a Divorce.

In the Superior Court of the State of California, in and for the County of —.

Margaret Quarrel,	} Plaintiff.
vs.	
William Quarrel,	
	} Defendant.

Margaret Quarrel, the plaintiff in this action, complains of William Quarrel, the defendant above named, and for cause of action avers:

That plaintiff is now, and for more than six months last past has been, a resident of — County, and State of —;

That the plaintiff and defendant in this action intermarried at the [town or city] of —, State of —, on the — day of —, A. D. 18—, and cohabited together as husband and wife until on or about the — day of —, A. D. 188—;

That, during said time, plaintiff was a true, faithful, and loving wife to her said husband, and in all things performed toward him her marital vows;

That, on divers days and times during the said time, said defendant treated this plaintiff with great and extreme cruelty without any just cause or provocation therefor on the part of plaintiff;

That, on or about the — day of —, 188—, said defendant, without just cause or provocation therefor, violently and rudely pushed plaintiff out of her bed and did, then and there, beat and bruise plaintiff about her head and shoulders, and did, then and there, falsely and maliciously call plaintiff “a damned — and a damned —,” and other vile and opprobrious epithets and names grievous to be borne, and did, then and there, falsely and maliciously accuse plaintiff of having committed divers adulteries with divers persons, and did, then and there, greatly and cruelly injure and wound the feelings of plaintiff, and other wrongs and cruelties did said defendant, then and there and at divers other times, commit against plaintiff, to plaintiff's great injury;

And plaintiff avers that she is of a sensitive and affectionate nature and disposition, and that she is unable to bear the cruelties above named and other cruelties inflicted on her by said defendant:

[If the wife has property, or if any property has been acquired since the marriage, the fact should be set out here, together with its value; so of children, the issue of the marriage.]

Wherefore, plaintiff prays the decree of the Court that the bonds of matrimony heretofore existing between plaintiff and defendant be dissolved and forever annulled [that she be awarded the property above described, if there be any, and if there were children of the marriage, it should be alleged in the complaint, their names and ages given, and their custody prayed for here], and for costs against defendant, and for such other and general relief in equity in the premises as to the Court may seem fit.

MARGARET QUARREL,

The bill should be verified. By A— B—, her Attorney.

Form 228.—Findings in an Action for Divorce.

In the Superior Court of the State of California, in and for the
County of —.

Margaret Quarrel,	}
Plaintiff.	
vs.	
Wm. Quarrel,	}
Defendant.	

This cause having been brought on to be heard this — day of —, 188—, the Court hears the testimony of — and — witnesses, offered on the part of plaintiff, and — witness offered on the part of the defendant, whereupon, the evidence on behalf of the respective parties being all submitted, the Court finds the following facts, to wit;

That the parties to this action, plaintiff and defendant, are legally before the Court by due process of law; that the plaintiff has been a resident of said — County and of the State of California more than six months prior to the commencement of this action;

That the plaintiff and defendant intermarried with each other on or about the — day of —, A. D. 18—, and have cohabited together since that time; that on the — day of —, A. D. 18—, and at divers other times, the defendant treated the plaintiff with great and extreme cruelty, not being moved thereto by any act or just cause of provocation on the part of plaintiff, and to the great injury of the plaintiff's person and feelings. The Court further finds that there is no common property belonging to the parties to this action [or as the case may be].

As a conclusion of law from the foregoing premises, the Court finds that the plaintiff is legally entitled to the decree of the Court, that the bonds of matrimony heretofore existing between the plaintiff, Margaret Quarrel, and the defendant, William Quarrel, be dissolved and forever annulled, and to judgment against the defendant for the costs of this action; and it is so ordered.

AMOS BOISE,
Judge of said Superior Court.

Form 229.—Decree.

In the Superior Court of the State of California, in and for the
County of —.

Margaret Quarrel,	}
Plaintiff.	
vs.	
William Quarrel,	}
Defendant.	

This cause having been brought on to be heard on this — day of —, A. D. 188—, upon the complaint herein taken, as confessed by the defendant [whose default for not answering had been duly entered], and upon the proofs taken herein before the Court, from which it appears to the satisfaction of the Court that all the material allegations of the complaint are sustained by the testimony, free from all legal exceptions as to its competency, admissibility and sufficiency; that said matters, so alleged and proved, are sufficient in law to entitle said plaintiff to the relief prayed for in her complaint; that said plaintiff was a resident of this county of — at the time of the commencement of the suit, and was an actual resident of this State for a period of six months immediately prior thereto; and it appearing also to said Court that said defendant was duly served with process herein, in accordance with the requirement of the statute in such cases: Now, on motion of —, Esq., of counsel for said plaintiff [and on filing the facts found by the Court in the premises];

It is ordered, adjudged, and decreed, and this Court, by virtue of the power and authority therein vested, and in pursuance of the statute in such case made and provided, does order, adjudge, and decree, that the marriage between the said plaintiff, Margaret Quarrel, and the said defendant, William Quarrel, be dissolved, and the same is hereby dissolved accordingly, and the said parties are, and each of them is, freed and absolutely released from the bonds of matrimony and all the obligations thereof; and it is further ordered and adjudged by the Court, that the said Margaret Quarrel have judgment against the said defendant, William Quarrel, for the costs of this suit herein taxed at — dollars, and that execution issue therefor.

AMOS BOISE,
Judge of said Superior Court.

Form 230.—Bond.

State of —, }
County of —. } ss.

Know all men by these presents, that we —, — [and —, —], of the County of —, and State of —, as principal, and — and —, of the County of —, and State of —, as sureties, are jointly and severally held and firmly bound unto —, of —, and — assigns, in the sum of — dollars, to be paid [in gold coin] of the United States of America, unto the said — assigns or legal representatives, which payment well and truly to be made we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this — day of —, A. D. 188—.

The condition of the above obligation is such that, whereas—

[Here set out the facts on account of which the bond is given.]

Now, therefore, if the said — [the principal], shall in all respects well and truly perform and fulfill each and every his duties [as —, whatever the trust or undertaking may be], then this obligation shall be void; but otherwise it shall be and remain in full force and virtue.

Witness our hand and seals as above stated.

— — — — —. [SEAL.]

— — — — —. [SEAL.]

— — — — —. [SEAL.]

Signed, sealed, and delivered
in presence of

— — — — —

If given by any public officer, or in any legal proceeding, *the sureties* should justify in the amount for which they severally become bound.

— — — — —

Form 231.—Bond of Indemnity.

Know all men by these presents, that we, —, as principal and — and — as sureties, are held and firmly bound unto — [Sheriff of — County, or Constable of — Township], County of —, and State of —, in the sum of — dollars [in gold coin], payment whereof well and truly to make, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Witness our hands and seals hereto set, this — day of —, A. D. 188—. The condition of the foregoing obligation is such

that, whereas, in a certain action at law lately pending in the [here state the title of the Court]-wherein — was plaintiff, and — was defendant; the said plaintiff did recover judgment against the said defendant for the sum of — dollars [in gold coin]; and whereas, the said plaintiff did, on the — day of —, 188—, cause an execution to issue on said judgment in due form of law, and did place the same in the hands of — as [Sheriff of said County, or Constable of said Township]; and whereas, the said [Sheriff or other officer] by virtue of said execution, did, on the — day of —, 188—, levy upon and has advertised for sale the following described goods, chattels and property, to wit:

[Here describe the property claimed by the third party, which has been levied on.]

and whereas, —, of —, claims that he, and not the defendant in said action, is the owner of said property, goods and chattels; now if the said — [the plaintiff in this action] shall save, bear and keep said [Sheriff or Constable] as aforesaid, harmless in the matter, and shall well and truly pay all damages, costs and expenses which said [Sheriff or Constable] may incur by reason of the sale of said property under and by virtue of said execution, notwithstanding the said claims of the said [name of claimant] or of any other person or persons to the same, then the above obligation shall be void; but otherwise it shall be and remain in full force and effect.

Witness our hands and seals, the day above stated.

_____. [SEAL.]
 _____ [SEAL.]
 _____ [SEAL.]

Witnesses: _____

Form 232.—Justification of Sureties.

State of —, }
 County of —. } ss.

— and —, sureties on the above bond, being duly sworn, say, each for himself, and not one for the other, that he is a resident and householder [or freeholder] of said — County, and that he is worth the sum of [the sum named in the bond] dollars, over and above his just debts and legal liabilities and property exempt from execution.

Subscribed and sworn to before me this
 — day of —, A. D. 188—

_____,
 Justice of the Peace.

Private Corporations are formed by the voluntary association of [five] or more persons, for some purpose permitted by the statutes of a State. The "Articles of Incorporation" must state the name of the corporation, its object, its purpose, the place where its principal business is to be transacted, the number of its Directors or Trustees, and the names and residences of those who are appointed for the first year [or if in Nevada for the first six months]; the amount of its capital stock and the number of shares into which it is divided; and if there be a capital stock the amount actually subscribed and by whom. The articles should be signed and acknowledged by the Trustees, and filed with the County Clerk, of the county in which the business of the company is to be transacted, and a [certified] copy thereof filed with the Secretary of State, who will [in California] issue to the Corporation, over the great seal of the State, a certificate that such articles, containing the required statement of facts, have been filed in his office. The incorporation will be perfected by these acts so far as to make the parties a corporate body.

Form 233.—Articles of Incorporation.

State of California, }
County of Butte. }

Know all men by these presents, that we the undersigned, under and by virtue of the provisions of the statutes of the State of California, providing for the formation of corporations for certain purposes, do hereby certify, agree and declare, each for himself and not one for the other, that we will, and by these presents do, form ourselves into a body politic, and incorporate, under the following provisions and restrictions, to wit:

ARTICLE I.

The name of said corporation shall be the Pacific Star Quartz Mining Company.

ARTICLE II.

The object for which this company is formed, is to mine for the precious metals in quartz.

ARTICLE III.

The principal place of business of said company shall be in the town of Oroville, Butte County, State of California.

ARTICLE IV.

The company shall continue its corporate existence for the period of twenty-five years, from and after the filing of these presents in the office of the County Clerk of Butte County.

ARTICLE V.

The number of its Directors or Trustees shall be three; and the following named persons shall constitute the Board of Trustees, and manage the business of the company during the first year, to wit: J. F. Johnson, R. S. Maynard, and G. K. Hendel, all of whom reside in said town of Oroville.

ARTICLE VI.

The amount of its capital stock shall be fifty thousand dollars, subject to be increased or diminished according to law; and said stock shall be divided into five hundred shares, subject to be enlarged or diminished in proportion with the capital stock. Of the capital stock above named, each of the parties to these presents has subscribed for one hundred shares.

ARTICLE VII.

The Board of Trustees of this company shall meet immediately after the filing of these presents, and adopt by-laws for the government of the company, and all necessary and proper arrangements for carrying out the objects herein expressed, and as to them may seem for the best interests of the company.

J. FLOURNEY JOHNSON. [SEAL.]

H. S. MAYNARD. [SEAL.]

G. K. HENDEL. [SEAL.]

A. M. ELLSWORTH. [SEAL.]

GEO. W. KRETSINGER. [SEAL.]

State of California, }
County of Butte. } ss.

On this twenty-first day of October, A. D. 1880, before me, H. A. Gaston, a Notary Public in and for said Butte County, duly commissioned and sworn, personally appeared J. Flourney Johnson, R. S. Maynard, G. K. Hendel, A. M. Ellsworth, and Geo. W. Kretsinger, to me personally known to be the individuals described in, and who executed the foregoing instrument as parties thereto, and they severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

H. A. GASTON,
Notary Public.

[SEAL.]

Form 234.—Special Power of Attorney.

[BANCROFT'S BLANK, No. 827.]

Know all men by these presents: That — of —, County of —, and State of —, have made, constituted and appointed, and by these presents do make, constitute and appoint — true and lawful attorney— for — and in — name—, place and stead, —; giving and granting unto —, said attorney—, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as — might or could do if personally present, hereby ratifying and confirming all that —, said attorney, shall lawfully do or cause to be done by virtue of these presents.

In witness whereof, — have hereunto set — hand— and seal— the — day of —, one thousand eight hundred and eighty —.

— —, [SEAL.]
— —, [SEAL.]

Signed, sealed and delivered in the
presence of — —,

Form 235.—General Power of Attorney.

[BANCROFT'S BLANK, No. 826.]

Know all men by these presents: That —, of —, County of —, and State of —, have made, constituted and appointed, and by these presents do make, constitute and appoint — true and lawful attorney— for — and in — name—, place and stead, and for — use and benefit, — to ask, demand, sue for, recover, collect and receive all such sums of money, debts, dues, account, legacies, bequests, interests, dividends, annuities, and demands whatsoever, as are now or shall hereafter become due, owing, payable, or belonging to —, and have, use and take all lawful ways and means in — name— or otherwise for the recovery thereof, by attachments, arrests, distress or otherwise, and to compromise and agree for the same, and acquittances or other sufficient discharges for the

same, for —, and in — name—, to make, seal and deliver; to bargain, contract, agree for, purchase, receive and take lands, tenements, hereditaments, and accept the seisin and possession of all lands, and all deeds and other assurances, in the law therefor; and to lease, let, demise, bargain, sell, remise, release, convey, mortgage and hypothecate lands, tenements and hereditaments upon such terms and conditions, and under such covenants as — shall think fit. Also, to bargain and agree for, buy, sell, mortgage, hypothecate, and in any and every way and manner deal in and with goods, wares and merchandise, choses in action, and other property in possession or in action, and to make, do and transact all and every kind of business of what nature and kind soever, and also for — and in — name—, and as — act and deed, to sign, seal, execute, deliver and acknowledge such deeds, covenants, indentures, agreements, mortgages, hypothecations, bottomries, charterparties, bills of lading, bills, bonds, notes, receipts, evidences of debt, releases and satisfaction of mortgage, judgment and other debts, and such other instruments in writing of whatever kind and nature as may be necessary or proper in the premises.

Giving and granting unto —, said attorney—, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as — might or could do if personally present; hereby ratifying and confirming all that — said attorney— shall lawfully do or cause to be done by virtue of these presents.

In witness whereof, — have hereunto set — hand— and seal— the — day of —, one thousand eight hundred and —.

— —. [SEAL.]

— —. [SEAL.]

— —. [SEAL.]

Signed, sealed and delivered in the presence of

— —.
— —.

Form 236.—Protest.

[BANCROFT'S BLANK, No. 967.]

United States of America, — of —, County of —, ss.

By this public instrument of protest, be it known, that on this — day of —, in the year of our Lord one thousand

eight hundred and —, at the request of —, who — holder of the original —, whereof a true copy is hereinafter written, I, —, a Notary Public, in and for said County of —, aforesaid, residing therein, duly commissioned and sworn, did this day —

Whereupon, I, the said Notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the drawer or maker of the said —, as against all others whom it doth or may concern, for all exchange or re-exchange, damages, costs, charges, and interests, suffered or to be suffered, for want of — of the said —.

Thus done and protested, in — County of —, on the day and year aforesaid.

In testimony whereof, I grant these presents under my signature, and the impress of my seal of office, in — County of —, on the day and year first above written.

_____,
Notary Public.

[Here insert a copy of the note or bill of exchange protested.]

I, the undersigned, Notary, do hereby certify, that the parties to the —, whereof a true copy is hereinbefore written, have been duly notified of the protest thereof, by letters to them by me written and addressed, dated on the day of the said protest, and served on them respectively, in the manner following, viz:

[Here explain how the parties were notified of the protest, whether in person, by mail, express, or otherwise.]

In faith whereof I have hereunto signed my name, and affixed my official seal, this — day of —. one thousand eight hundred and —.

_____,
Notary Public.

Form 237.—Notice of Protest.

[BANCROFT'S BLANK, No. 805.]

United States of America. [Place and date.] 188—.

Sir: Please take notice that a certain —, dated —, A. D. —, for the sum of — dollars, payable —, drawn by —, in favor of —, was this day presented by me to — at —, and — thereof demanded, which was refused, and the said — having been dishonored, the same was this day protested by me for the non- — thereof, and the holder— look— to you for the payment thereof, together with all costs, charges, in-

terest, expenses and damages already accrued, or that may hereafter accrue thereon by reason of the non- — of said —.

Very respectfully yours, etc.,

_____,
Notary Public.

Form 238.—Affidavit.

FOR EXAMINATION OF JUDGMENT-DEBTOR, SUPPLEMENTAL TO RETURN OF
EXECUTION UNSATISFIED.

[BANCROFT'S BLANK, No. 539.]

In the District Court of the First Judicial District of the State
of Nevada, in and for the County of Storey.

J. S. Young,	} Plaintiff.
vs.	
James McCarthy,	
	Defendant.

State of Nevada, County of Storey, ss.

Wal. J. Tuska, being duly sworn, says that he is the attorney for the plaintiff in the above-entitled action; that the said plaintiff, on or about the tenth day of December, A. D. 1879, recovered a judgment in said action in the District Court of the First Judicial District of the State of Nevada, in and for the County of Storey, against the defendant in said action, for seven hundred and ninety-one dollars or thereabouts, for damages and costs, which judgment was duly entered and docketed in the office of the Clerk of said Court, in the said County of Storey, being the county where said defendant then resided and in which the judgment-roll in said action is filed, to be executed according to law; that an execution issued by virtue of said judgment was placed in the hands of the Sheriff of said County and has been returned unsatisfied: that the said judgment still remains in full force and effect, and is wholly unsatisfied, and not reversed, vacated, or set aside.

That, as affiant is informed and verily believes, the said defendant now resides in Storey County and has property, which he unjustly refuses to apply towards the payment or satisfaction of said judgment, and that he endeavors to conceal the same.

WAL. J. TUSKA.

Subscribed and sworn to before me, this
thirteenth day of February, 1880.

J. E. McDONALD, Clerk,

By HENRY ROLFE, Deputy Clerk.

Form 239.—Order of Court.

TO APPEAR BEFORE HIM SUPPLEMENTAL TO PROCESS OF EXECUTION
UNSATISFIED.

[ATTACHED TO BANCROFT'S BLANK, No. 539.]

State of —, }
County of —. } ss.

On reading the foregoing affidavit, and it satisfactorily appearing to me therefrom that —, the defendant— in the above-entitled action, ha— property which — unjustly refuse— to apply towards the satisfaction of the judgment in said action, and that it is a proper case for this order, and on application of the plaintiff's attorney—, I, the undersigned, — of the said — of the — of the State of —, do hereby order and require the said defendant— — personally to be and appear before —, at —, in —, in the County of —, on the — day of —, A. D. 1880, at — o'clock in the —noon of that day, to answer concerning — property; and that a copy of said affidavit and of this order be previously served upon said defendant.

Dated this — day of —, A. D. 188—.

District Judge [or Justice of the Peace].

Form 240.—Sheriff's Certificate.

OF SALE OF REAL ESTATE ON EXECUTION.

[BANCROFT'S BLANK, No. 219.]

In the Superior Court in and for the County of —, State of California.

Plaintiff.
vs.

Defendant. }

I, —, Sheriff of the County of —, do hereby certify that, by virtue of an execution in the above-entitled action, tested the — day of —, A. D. 188—, by which I was commanded to make the amount of — dollars — of the United States, to satisfy the judgment in said action, with costs and interests thereon, out of the personal property of —, the defendant— in said action, and if sufficient personal property could not be found, then, out of the real property belonging to the said defendant— on the — day of —, A. D. 188—, or at any time

thereafter, as by the said writ, reference being thereunto had, more fully appears; I have levied on, and this day sold at public auction, according to the statute in such cases made and provided, to —, who was the highest bidder, for the sum of — dollars — of the United States, which was the whole price paid by him for the same, the real estate particularly described as follows, to wit:

[Here insert a description of the property sold.]

That the price of each distinct lot and parcel was as follows [here state each parcel sold and the amount paid for each], and that the said real estate is subject to redemption in [state kind of money] of the United States, pursuant to the statute in such cases made and provided.

Given under my hand, this — day of —, A. D. 188—.

—, Sheriff.

By —, Deputy Sheriff.

Form 241.—Certificate of Sale on Foreclosure.

[BANCROFT'S BLANK, No. 220.]

I, —, Sheriff of the County of —, State of Nevada, do hereby certify that, under and by virtue of an order of sale issued out of the — Court of the — Judicial District of the said State, in and for the — County of —, in the action of — against —, rendered on the — day of —, 188—, and entered on the — day of —, 18—, duly attested the — day of —, 18—, and to me, as such Sheriff, duly directed and delivered, whereby I was commanded to sell the property hereinafter described, according to law, and to apply the proceeds of such sale towards the satisfaction of the judgment in said action, amounting to the sum of — dollars, with interest and costs of suit, I duly levied on, and on the — day of —, 18—, at — o'clock — M., at the Court-house door, in the town of —, in the said —, County of —, I duly sold at public auction, according to law, and after due and legal notice, to —, who made the highest and best bid therefor at such sale, for the sum of — dollars, which was the whole sum paid by —, the real estate in said order of sale, lying and being in said —, County of —, State of —, and described as follows, to wit:

[Here insert a description of the estate sold.]

and I do hereby further certify that the said property was sold in — lot— or parcel—, and that the sum of — was the

highest bid made, and the whole price paid therefor, and that the same is subject to redemption in [state the kind of money named in the order of sale], pursuant to the statute in such case made and provided.

Given under my hand, this — day of —, 18—.

—, Sheriff.

By —, Deputy Sheriff.

CHAPTER XIV.

BOOK-KEEPING, WEIGHTS, MEASURES, ETC.

The art of book-keeping teaches how to record, systematically, the various transactions of business in any occupation in which a person may be engaged, so that he may know his pecuniary situation, possess ability to substantiate his claims, and protect his property, and at death to leave behind him evidence that will enable his friends to understand his business relations and engagements, and settle his affairs in a satisfactory manner; and every person doing any business should keep a book record of his business and engagements rather than rely upon memory, or loose papers, for evidence.

When books of account are properly kept, though the style of keeping them be very simple, they often become matters of great legal value, and such books are recognized as legal evidence, when properly kept, by all civilized people. Their value, however, is often limited by time in this respect, and under the statutes of both California and Nevada, an action on a book account must be commenced within two years from the time an article was delivered by the creditor to the debtor, or the right to bring a suit for it will be barred; while on any instrument in writing signed by a debtor an action may be commenced at any time within four years from the time it became due.

There are two methods of book-keeping: one being called single, and the other double, entry; the latter is employed in extensive and complicated mercantile business, where a check is required upon each entry, to prove that it has been recorded properly. The former is generally used by persons engaged in ordinary business, because it is more simple than the other, and is sufficiently correct for ordinary purposes. It requires but three books: the Day-book, Ledger and Cash-book; but to these may be added a Bill-book, in which all notes, received or given, are recorded, showing when drawn, by whom, in whose favor, length of time, when due, amount of note, and any proper explana-

tion; and a Sales-book, in which orders for goods, or the details of sales are entered; and a Receipt-book, where receipts for payments of debts can be permanently kept. As this book is not intended to teach the art of book-keeping, but to treat of them rather as legal instruments often offered in evidence, the first three named above will be spoken of particularly.

The Day-book should contain correct statements of every business transaction which gives rise to persons owing us, or to our owing them, properly arranged under the head of Debtor, or Creditor. The accounts should be entered in this book *at the time they were created*, or in the regular order of business in which they occurred.

The book should be commenced by stating the name of the owner and his residence. The day, month, and year should then be written and repeated at the head of each page corresponding with the date of the first transaction on each page, while all subsequent dates on each page should stand above the transaction to which it belongs. In making an entry, the name of the person with whom we deal is written with Dr. or Cr. at the right of the name to show whether he becomes a debtor or a creditor by the transaction. Then a statement should follow specifying the articles bought or sold, and the price of each. The sum of the values should then be found, and the total amount should be entered in the column of dollars and cents. The rule for determining how an entry must be made is this: *The person with whom you deal is debtor for whatever he receives of you, and is creditor for whatever you receive from him.*

If a mistake be made in an account, it should not be corrected by altering the original entry, but a new entry should be made debiting or crediting the amount of the error as "John Jones Cr. by [or Dr. to] error in account of October 6, one dollar and fifty cents." This will enable a person to swear before a Court that his book contains his original entries without alteration, and his book will not look suspicious.

The Ledger is intended to collect on one page the scattered transactions of the Day-book relating to one person, and should show all the debits and credits of such person, so that the owner can tell at once how the person's account

stands. The Dr. accounts are placed on the left hand of the page, and the Cr. accounts on the right hand, and each item should refer by numbers to the page of the Day-book on which it may be found; while each sum of items of the Day-book should refer to the page of the Ledger on which it will be found. Every Ledger should also contain an index, in which all the names it contains should be alphabetically arranged, with the page of the Ledger on which the person's account can be found.

The Cash-book should contain a record of the payments and receipts of cash as they occur from day to day; but all money received on any person's account should be entered to his credit on the Day-book; so with money paid to any person on account.

Persons making but few entries in their business, and requiring but one book for their accounts, might adopt the Ledger form, and appropriate a page to each person's account, using the book for original entries.

DAY BOOK [By Single Entry].

J. K. EVERETT, Reno, Nevada, January 3, 1880.

× 1	William Smith	Dr.	
	To 8 yds. of muslin at 9 cts. a yd.	\$ 0.72	
	" 4 " " cloth at \$3 a yd.	12.00	
	" 1 scythe	1.10	\$ 13.82
	3		
× 2	Henry Jones	Dr.	
	To 1 pr. of shoes	\$1.40	
	" 1 lb of tea	75	2.15
	3		
× 3	Charles Johnson	Cr.	
	By 1 bay horse		115.00
	3		
× 2	Henry Jones	Dr.	
	To 14 lbs. nails at 6 cts.	\$0.84	
	" 5 galla. molasses at 32 cts.	1.60	
	" 12 lbs. cheese at 10 cts.	1.20	3.64
	Cr.		
× 2	By 8 lbs. wool at 36 cts.		2.88
	3		
× 1	William Smith	Cr.	
	By 1 load of hay	\$6.00	
	" 12 lbs. of butter at 9 cts.	1.08	7.08
	3		
× 3	Charles Johnson	Dr.	
	To cash		50.00
	4		
× 1	William Smith	Dr.	
	To 1 stove	\$14.00	
	" 8 yds. cloth at \$3	24.00	
	" 1 horse	42.00	80.00
	4		
× 3	Charles Johnson	Dr.	
	To 1 set of harness	\$20.00	
	" 1 wagon	64.00	84.00
	5		
× 2	Henry Jones	Dr.	
	To 28 lbs. sugar at 8 cts.	\$2.24	
	" 1 barrel of flour	7.00	
	" 3 brooms at 14 cts.	.42	9.66
	5		
× 3	Charles Johnson	Cr.	
	By 20 bushels corn at 62 cents	\$12.40	
	" cash	30.00	
	" order on Peter Wilkins	21.00	63.40
	7		
× 3	Charles Johnson	Dr.	
	To check to balance account		44.40
	10		
× 2	Henry Jones	Cr.	
	By cash to balance account		12.57
	12		
× 1	William Smith	Cr.	
	By his note, payable 3 months from date		75.00

LEDGER.

Dr.

WILLIAM SMITH.

Cr.

1880.				1880.			
Jan. 3	1	To sundries	\$13.82	Jan. 3	1	By hay and butter	\$ 7.08
" 4	1	" "	80.00	" 12	"	" note at 3 months	75.00
					"	" balance	11.74
							<u>\$93.82</u>
" 12		To balance	\$11.74				

Dr.

HENRY JONES.

Cr.

1880.				1880.			
Jan. 3	1	To sundries	\$2.15	Jan. 3	1	By wool	\$ 2.88
" 8	1	" "	8.64	" 10	1	" cash	12.57
" 5	1	" "	9.66				
			<u>\$15.45</u>				<u>\$15.45</u>

Dr.

CHARLES JOHNSON.

Cr.

1880.				1880.			
Jan. 3	1	To cash	\$50.00	Jan. 3	1	By 1 bay horse	\$115.00
" 4	1	" harness and wagon	84.00	" 5	1	" sundries	63.40
" 7	1	" check to balance	44.40				
			<u>\$178.40</u>				<u>\$178.40</u>

CASH BOOK.

Dr.

Cr.

1880.				1880.			
Jan. 3		To cash on hand	\$150.00	Jan. 3		Paid rent of store	\$ 75.00
" 5		Received of G. Johnson	30.00	" 5		" Ohas. Johnson	50.00
" 5		Order on P. Wilkins	21.00	" 7		" " check	44.40
" 9		Receipts of store	106.75	" 9		" expenses in store	8.20
			<u>\$307.75</u>	" 9		Cash on hand	130.15
							<u>\$307.75</u>
Jan. 9		To cash on hand	\$130.15				
" 10		Received of H. Jones	12.57				

The account of each person in the foregoing representation of a Ledger, is intended to represent one page of such Ledger, the accounts having been *posted* from the first page of the Day-book. The figures on the left of the page of the Day-book show on what page of the Ledger the account can be found, and the figures in the open columns on the Dr. and Cr. sides of the page of the Ledger show on what pages of the Day-book the *items* of the account will be found. The marks × on the left of the page of the Day-book show that the account has been *posted* or *carried to the Ledger*.

LEGAL MEASURES OF VALUE, WEIGHT, CAPACITY, ETC.

MONEY OF THE UNITED STATES.

10 mills = 1 cent.
10 cents = 1 dime.

10 dimes = 1 dollar.
10 dollars = 1 eagle.

Pure gold is worth \$20.67 + 183 per ounce.

Pure silver is worth \$1.22 + 29 per ounce.

A legal silver dollar weighs 412½ grains, troy.

A legal gold dollar weighs 25.8 grains, troy.

A legal eagle weighs 258 grains, troy.

A double-eagle weighs 516 grains, troy.

The standard of gold and silver is nine hundred parts of pure metal and one hundred parts of alloy in one thousand parts of coin.

MEASURES OF VOLUME.

The standard gallon measures two hundred and thirty-one cubic inches. The standard bushel contains two thousand one hundred and fifty and forty-two one-hundredths cubic inches, and its dimensions are eighteen and one half inches diameter inside, and nineteen and one half inches outside, and when heaped, the cone should be six inches high. This measure is not often used or seen.

Liquid Measure.

4 gills = 1 pint.
2 pints = 1 quart.
4 quarts = 1 gallon.
31½ gallons = 1 barrel.
42 gallons = 1 tierce.
63 gallons = 1 hogshead.

Dry Measure.

2 pints = 1 quart.
8 quarts = 1 peck.
4 pecks = 1 bushel.
36 bushels = 1 chaldron.

1728 cubic inches make 1 cubic foot.

27 cubic feet make 1 cubic yard.

1 cubic foot contains 7½ gallons; or, more exactly, 7.4805 gallons.

1 bushel contains 9.30918 gallons.

1 chaldron contains 57.244 cubic feet.

1 cord of wood contains 128 cubic feet.

1 perch of stone contains 24½ cubic feet.

MEASURES OF WEIGHT.

Avoirdupois.

16 drams = 1 ounce.
16 ounces = 1 pound.
112 pounds (U. S.) = 1 cwt.
100 pounds (commonly) = 1 cwt.
20 cwt. = 1 ton.

Troy.

24 grains = 1 dw't.
20 pennyweights = 1 ounce.
12 ounces = 1 pound.

1 pound avoirdupois = 14 oz., 11 dw'ts., 16 grains, troy.

Apothecaries' Weight.

20 grains = 1 scruple.
3 scruples = 1 drachm.
8 drachms = 1 ounce.

12 ounces = 1 pound.
45 drops = 1 teaspoonful.
2 table spoonfuls = 1 ounce.

MEASURES OF LENGTH.

12 inches = 1 foot.	<i>Gunter's Chain.</i>
3 feet = 1 yard.	7.92 inches = 1 link.
5½ yards = 1 rod.	100 links = 1 chain, 4 rods.
40 rods = 1 furlong.	80 chains = 1 mile.
8 furlongs = 1 mile.	
6 feet make 1 fathom.	4 inches make 1 hand.
120 fathoms make 1 cable length.	9 inches make 1 span.
3 inches make 1 palm.	3 barleycorns make 1 inch.
1 mile contains 5280 feet, or 1760 yards.	
1 degree of latitude = 69.77-100 statute miles.	

MEASURES OF SURFACE.

144 square inches = 1 square foot.
9 square feet = 1 square yard.
100 square feet = 1 architect's square.
30½ square rods = 1 square rood.
4 square roods, or 10 square chains = 1 square acre.
640 acres = 1 square mile.

MEASURES OF TIME.

60 seconds = 1 minute.	4 weeks = 1 lunar month.
60 minutes = 1 hour.	28 to 31 days = 1 calendar month.
24 hours = 1 day.	12 months = one year.
7 days = 1 week.	365½ days = 1 year.

A solar year contains 365 days, 5 hours, 48 minutes, 49 seconds.
 A sidereal year contains 365 days, 6 hours, 9 minutes, 12 seconds.

MEASURES OF CIRCLES.

60 seconds = 1 minute.	30 degrees = 1 sign.
60 minutes = 1 degree.	90 degrees = 1 quadrant.
360 degrees = 1 circumference.	

The circumference of the earth is divided into three hundred and sixty degrees. The sun passes over one degree in every four minutes therefore, or seems so to pass, by the revolution of the earth on its axis. If, therefore, you desire to know what time it is at any other point on the earth, ascertain from your map your own longitude and the longitude of the place you have in view; multiply the number of degrees of longitude between the two points by four, and the product will be the difference in time, *in minutes*, between the two points. If the product be more than sixty, divide such product by sixty, and your quotient will be hours, and your remainder will be minutes. If the place be east of you, add the time to the time at your own place, and the sum will be the time at the point required; but if the place be west of you, subtract the result from your time, and the remainder will be the time at the place required. In making your calculation you must bear in mind that clocks usually mark only twelve hours instead of twenty-four, and that one hour after twelve the clock marks one again at all points of the earth.

CHAPTER XV.

LATIN PHRASES, AND TRANSLATIONS.

- Ab initio.* From the beginning.
Ab uno disce omnes. From a single instance you may infer the whole.
Ad captandum vulgus. To catch the rabble.
Ad finem esto fidelis. Be faithful to the end.
Ad Græcas kalendas. Never.
Ad infinitum. To infinity.
A fortiori. With stronger reason.
Alias. Otherwise; as, Allan *alias* Thompson.
Alibi. Elsewhere.
Alma mater. A benign mother; applied generally to the university.
A mensa et thoro. Divorced from bed and board.
Amor patriæ. The love of our country.
Animus consciens se remordet. A guilty mind punishes itself.
Anno Domini (A. D.). In the year of our Lord.
Anno Mundi (A. M.) In the year of the world. Before noon.
A posteriori. From the effect to the cause.
A priori. From the cause to the effect.
Arbiter elegantiarum. Master of the ceremonies.
Argumentum ad hominem. An argument to the man.
Ars est celare artem. The perfection of art is to conceal art.
Audi alteram partem. Hear the other party.
Audito multa, sed loquere pauca. Hear much but say little.
Auri sacra fames. The accursed appetite for gold.
Aut Cæsar aut nullus. He will either be Cæsar or nobody.
Basis virtutis constantia. Constancy is the foundation of virtue.
Beatus ille qui procul negotiis. Blessed are they who retire from toil.
Bona fide. In good faith; in reality.
Brutum fulmen. A harmless thunder-bolt.
Cacoethes. An evil custom. Thus, *cacoethes loquendi*—scribendi. A rage for talking—scribbling.
Causus belli. The cause or reason for war.
Caput mortuum. The worthless remains.
Cede Deo. Submit to God.
Cede magnis. Give way to the powerful.
Cedant arma togæ. Let arms yield to eloquence.
Certum pete finem. Aim at a sure end.
Communia proprie dicere. To express common things with propriety.
Compos mentis. In a state of sane mind.
Concordia res parvas crescunt. Small things increase by union.
Confide recte agens. Fear not while acting justly.
Contra bonos mores. Against good morals.
Corpus delicti. The body of the crime.
Cui bono? To what good?
Currente calamo. With a running pen.
Data. Things given or granted.
De facto—de jure. From the fact—from the law.
Delectando pariterque monendo. By imparting at once pleasure and instruction.
Delenda est Carthago. Carthage must be destroyed. (The words of Cato.)
De mortuis nil nisi bonum. Let nothing be said of the dead but what is favorable.
Deo favente—juvante—volente. With God's favor—help—will.
Desideratum. The thing desired.
Desipere in loco. To play the fool at the right time.
Desunt cætera. The remainder is wanting.
Deum cole, Patriæ serva. Worship God, serve your country.
Deus protector noster. God is our protector.
Dilige amicos. Love your friends.
Divide et impera. Divide and govern.
Dulce et decorum est pro patria mori. It is sweet and glorious to die for one's country.
Dum vivimus vivamus. Let us live while we live.
Est modus in rebus. There is a medium in all things.

- Esto perpetua.* Be thou perpetual.
Esto quod videris. Be what you seem to be.
Ex cathedra. From the chair; authoritatively.
Exempli gratia (E. g. and *Ex. gr.*) By the way of example.
Ex nihilo nihil fit. Nothing produces nothing.
Ex officio. By virtue of his office.
Ex parte. On one part.
Experto crede. Believe an experienced man.
Extempore. Without premeditation.
Fac simile. Do the like; an engraved resemblance of handwriting.
Fama semper virescit. A good name will shine forever.
Familias firma pietas. Devotion strengthens families.
Fas est et ab hoste doceri. It is allowable to derive instruction even from an enemy.
Felo de se. A suicide.
Fiat justitia, ruat cælum. Let justice be done though the heavens should fall.
Fortuna favet fortibus. Fortune favors the bold.
Fruges consumere nati. Men born only to consume food.
Haud passibus æquis. With unequal steps.
Hinc illas lachrymæ. Hence proceed these tears.
Id est (i. e.) That is.
Id genes omne. All persons of that description.
Imprimatur. Let it be printed.
Impromptu. Without study.
In forma pauperis. In the form of a poor man.
In propria persona. In person.
In re. In the matter of.
In terrorem. In terror.
In transitu. In passing.
Ipsæ dixit. He himself said it; dogmatism.
Judex damnatur cum nocens absolvitur. Guilt attaches to a judge when the guilty are suffered to escape.
Jure divino—humano. By divine—by human law.
Labor omnia vincit. Labor conquers everything.
Lapsus linguæ. A slip of the tongue.
Lex talionis. The law of retaliation.
Locum tenens. A deputy or substitute.
Magna est veritas, et prævalebit. The truth is powerful, and will prevail.
Materiam superabat opus. The workmanship surpassed the materials.
Medio tutissimus ibis. A medium course will be the safest.
- Memento mori.* Remember death.
Mens sibi conscia recti. A mind conscious of rectitude.
Mirabile dictu. Wonderful to tell.
Multum in parvo. Much in little.
Mutatis mutandis. After making the necessary changes.
Necessitas non habet leges. Necessity has no law.
Nem. con. An abbreviation of *nemine contradicente*. Without dissent or opposition.
Ne plus ultra. Nothing beyond—the utmost point.
Ne quid nimis. Too much of one thing is good for nothing.
Nisi Dominus frustra. Unless the Lord assist you, all your efforts are in vain.
Noscitur ex sociis. He is known by his companions.
Nota bene (N. B.) Mark well.
Obiter dictum. A thing said by the way or in passing.
Onus probandi. The weight of proof; the burden of proving.
O si sic omnia! Oh that he had always done, or spoken thus!
O tempora, O mores! Oh the times, oh the manners!
Otium cum dignitate. Ease with dignity.
Palmam qui meruit ferat. Let him who has won bear the palm.
Pari passu. By a similar gradation.
Par nobile fratrum. A noble pair of brothers.
Particeps criminis. An accomplice.
Passim. Everywhere.
Per fas et nefas. Through right and wrong.
Per se. By itself.
Poeta nascitur non fit. Nature, not study, must form a poet.
Prima facie. On the first view or appearance.
Prima via. The first passages; the upper part of the intestinal canal.
Primum mobile. The main spring; the first impulse.
Principiis obsta. Oppose the first appearance of evil.
Pro aris et fociis. For our altars and firesides.
Pro bono publico. For the public good.
Pro et con. For and against.
Pro re nata. For a special business.
Pro tempore. For the time.
Quid nunc? What now?
Quid pro quo. What for what; tit for tat.
Quoad hoc. To this extent.
Quod erat demonstrandum. Which was meant to be shown.

<i>Reductio ad absurdum.</i> A reducing to an absurdity.	<i>Suum cuique.</i> Let every man have his own.
<i>Re infecta.</i> Without attaining his end.	<i>Tabula rasa.</i> A smoothed tablet.
<i>Requiescat in pace.</i> May he rest in peace.	<i>Tempora mutantur, et nos mutamur in illis.</i> The times change, and we change with them.
<i>Res angusta domi.</i> Narrow circumstances at home.	<i>Toties quoties.</i> As often as.
<i>Respice finem.</i> Look to the end.	<i>Supra.</i> Above mentioned.
<i>Seriatim.</i> In order.	<i>Vade mecum.</i> Go with me.
<i>Sic itur ad astra.</i> Such is the way to immortality.	<i>Veluti in speculum.</i> As if in a mirror.
<i>Sic passim.</i> So everywhere.	<i>Veni, vidi, vici.</i> I came, I saw, I conquered.
<i>Sic transit gloria mundi.</i> Thus the glory of the world passes away.	<i>Vis inertiae.</i> For or property of inanimate matter.
<i>Sine die.</i> To an indefinite time.	<i>Versus (v.)</i> Against.
<i>Sine qua non.</i> An indispensable condition.	<i>Vice versa.</i> The terms of cases being changed.
<i>Status quo ante bellum.</i> The state in which both parties were before the war.	<i>Vi et armis.</i> By main force.
<i>Suaviter in modo, fortiter in re.</i> Gentle in the manner, but vigorous in the deed.	<i>Viva voce.</i> By or with the living or loud voice.
<i>Sub silentio.</i> In silence.	<i>Viz (videlicet.)</i> Namely.
<i>Summum bonum.</i> The chief good.	<i>Vox et præterea nihil.</i> A voice and nothing more.
	<i>Vox populi, vox Dei.</i> The voice of the people is the voice of God.

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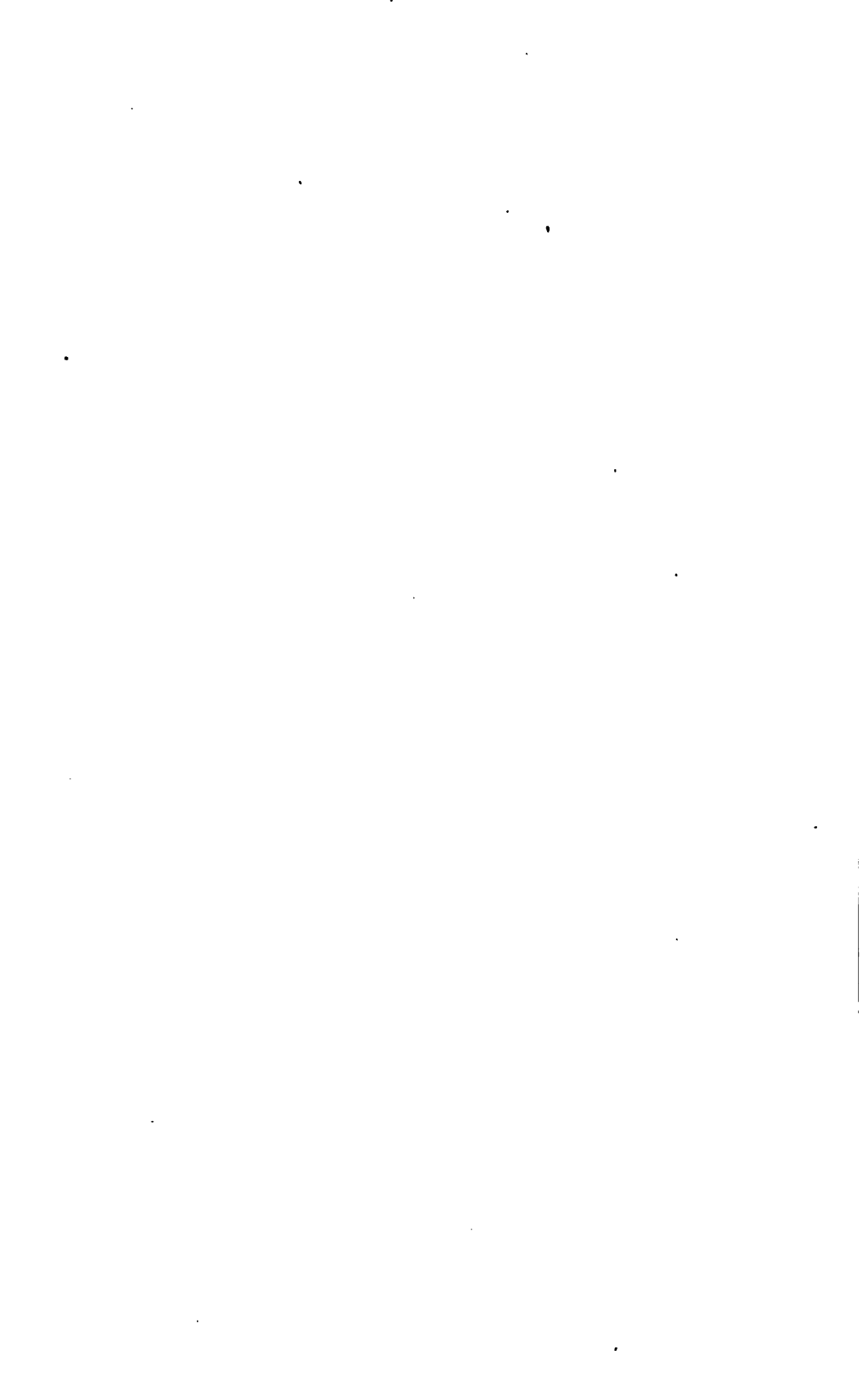
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